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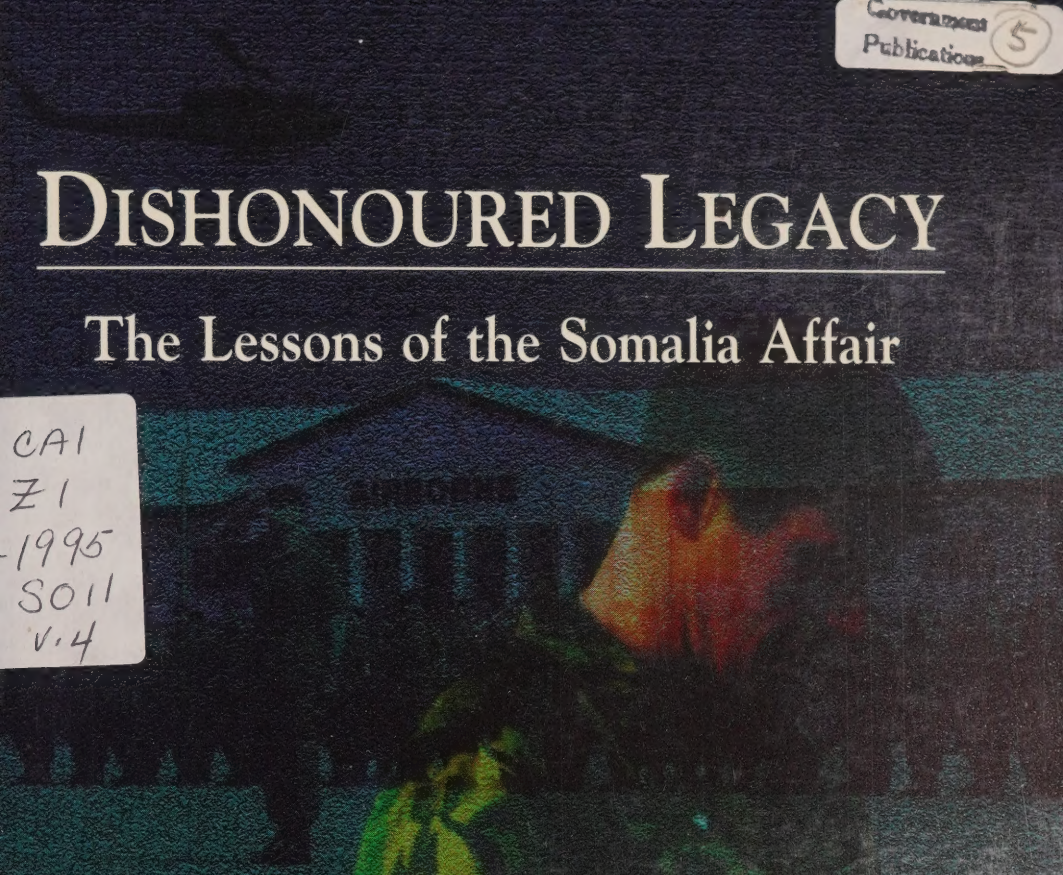
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DISHONOURED LEGACY

The Lessons of the Somalia Affair

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Report of the Commission of Inquiry into the Deployment of Canadian Forces to Somalia

Volume 4

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The Lessons of the Somalia Affair

Report of the

Commission of Inquiry into the

Deployment of Canadian Forces to Somalia

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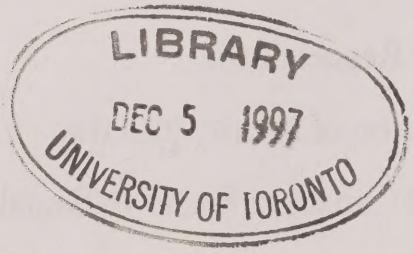
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Note to Readers

Military Ranks and Titles

In recounting events and reporting on testimony received, this report refers to many members of the Canadian Forces by name, rank and, sometimes, title or position held. Generally, we have used the rank and title in place at the time of the Somalia deployment or at the time an individual testified before this Commission of Inquiry, as appropriate. Thus, for example, the ranks mentioned in text recounting the events of 1992–93 are those held by individuals just before and during the deployment to Somalia, while ranks mentioned in endnotes are those held by individuals at the time of their testimony before the Inquiry.

Since then, many of these individuals will have changed rank or retired or left the Canadian Forces for other reasons. We have made every effort to check the accuracy of ranks and titles, but we recognize the possibility of inadvertent errors, and we apologize to the individuals involved for any inaccuracies that might remain.

Source Material

This report is documented in endnotes presented at the conclusion of each chapter. Among the sources referred to, readers will find mention of testimony given at the Inquiry's policy and evidentiary hearings; documents filed with the Inquiry by government departments as a result of orders for the production of documents; briefs and submissions to the Inquiry; research studies conducted under the Inquiry's commissioned research program; and documents issued by the Inquiry over the course of its work.

Testimony: Testimony before the Commission of Inquiry is cited by reference to transcripts of the Inquiry's policy and evidentiary hearings, which are contained in 193 volumes and will also be preserved on CD-ROM after the Inquiry completes its work. For example: Testimony of LCol Nordick, Transcripts vol. 2, pp. 269–270. Evidence given at the policy hearings is denoted by the letter 'P'. For example: Testimony of MGen Dallaire, Policy hearings transcripts vol. 3P, p. 477P.

Transcripts of testimony are available in the language in which testimony was given; in some cases, therefore, testimony quoted in the report has been translated from the language in which it was given.

Documents and Exhibits: Quotations from some documents and other material (charts, maps) filed with the Inquiry are cited with a document book number and a tab number or an exhibit number. These refer to binders of documents assembled for Commissioners' use at the Inquiry's hearings. See Volume 5, Chapter 40 for a description of how we managed and catalogued the tens of thousands of documents we received in evidence.

Some of the references contain DND (Department of National Defence) identification numbers in lieu of or in addition to page numbers. These were numbers assigned at DND and stamped on each page as documents were being scanned for transmission to the Inquiry in electronic format. Many other references are to DND publications, manuals, policies and guidelines. Also quoted extensively are the *National Defence Act* (NDA), Canadian Forces Organization Orders (CFOO), Canadian Forces Administrative Orders (CFAO), and the *Queen's Regulations and Orders for the Canadian Forces* (which we refer to as the *Queen's Regulations and Orders*, or QR&O). Our general practice was to provide the full name of documents on first mention in the notes to a chapter, with shortened titles or abbreviations after that.

Research Studies: The Commission of Inquiry commissioned 10 research studies, which were published at various points during the life of the Inquiry. Endnotes citing studies not yet published during final preparation of this report may contain references to or quotations from unedited manuscripts.

Published research and the Inquiry's report will be available in Canada through local booksellers and by mail from Canadian Government Publishing, Ottawa, Ontario, K1A 0S9. All other material pertaining to the Inquiry's work will be housed in the National Archives of Canada at the conclusion of our work.

Acronyms and Abbreviations

This report contains many acronyms and abbreviations for government departments and programs and Canadian Forces elements, systems, equipment, and other terms. Generally, these names and terms are spelled out in full with their abbreviation or acronym at their first occurrence in each chapter; the abbreviation or acronym is used after that. For ranks and titles, we adopted the abbreviations in use in the Canadian Forces and at the Department of National Defence. A list of the acronyms and abbreviations used most often, including abbreviations for military ranks, is presented in Appendix 7, at the end of Volume 5.

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The Failures of Senior Leaders

Shortcomings Regarding Pre-Deployment and Document Disclosure

This is the only part of our report where individual conduct is considered separate from systemic or institutional activity. To be sure, group or organizational failures have merited our attention and have emerged at many points throughout this report in the detailed analysis of systemic or institutional questions. However, we have reserved this part of our report for the exclusive consideration and determination of whether individual failings or shortcomings existed in the Somalia deployment and whether individual misconduct occurred. The curtailment of our mandate has necessarily required the restriction of our analysis of individual shortcomings to the pre-deployment phase and to the Department of National Defence, Canadian Forces, and, more particularly, Directorate General of Public Affairs (DGPA)/document disclosure phase of our endeavours. We informed those responsible for the in-theatre phase that we would not make findings on individual misconduct in respect of that phase, and we withdrew the notices of serious shortcomings given to them.

The Governor in Council has made this section of our report necessary by entrusting us with a mandate that specifically obliged us to investigate individual misconduct, in addition to probing policy issues. A section on individual misconduct was also necessitated by our being asked to inquire into and report on a great many matters that should, at least in some measure, involve an assessment of individual conduct, including the effectiveness of decisions and actions taken by leaders in relation to a variety of important matters; operational, disciplinary, and administrative problems and the effectiveness of the reporting of and response to these problems; the manner in

which the mission was conducted; allegations of cover-up and destruction of evidence; the attitude of all ranks toward the lawful conduct of operations; the treatment of detainees; and the understanding, interpretation, and application of the rules of engagement.

This part of our report is entitled "The Failures of Senior Leaders". The notion of leadership failure developed here involves the application of the principles of accountability that we discussed earlier and is informed by an appreciation of the qualities of leadership that we describe in our chapter on that subject. However, one additional specific aspect of failed leadership that is of importance in this discussion is the shortcoming which occurs when an individual fails in his or her duty as a commander.

Queen's Regulations and Orders (QR&O) art. 4.20 states that a "commanding officer" is responsible for the whole of the commanding officer's base, unit, or element and that, although a commanding officer may allocate to officers who are immediately subordinate to the commanding officer all matters of routine or of minor administration, nonetheless the commanding officer must retain for himself or herself matters of general organization and policy, important matters requiring the commanding officer's personal attention and decision, and the general control and supervision of the various duties that the commanding officer has allocated to others.

Under QR&O art. 4.10, an officer commanding a command is responsible directly to the Chief of the Defence Staff (CDS) or such officer as the CDS may designate for the control or administration of all formations, bases, units, and elements allocated to the command.[1] It is our understanding that an officer commanding a command, and that all senior commanders, have, in custom and by analogy with QR&O art. 4.20, the same, or similar, responsibilities as a "commanding officer".[2] In other words, a commander has a duty to retain for himself or herself matters of general organization and policy, important matters requiring the commander's personal attention and decision, and the general control and supervision of the various duties that the commander has allocated to others.

The individual failures or misconduct that we describe in the following pages have been previously identified and conveyed to the individual named by means of the device referred to as a "section 13 notice". The section reference in this title is to the provision in the *Inquiries Act* which stipulates that:

> 13. No report shall be made against any person until reasonable notice has been given to the person of the charge of misconduct alleged against him and the person has been allowed full opportunity to be heard in person or by counsel.

Recipients of section 13 notices received their notices[3] early in our process and before the witnesses testified. These notices were later amplified and clarified by written communications which, in turn, were the subject of further explanations offered in response to individual queries from notice recipients. All section 13 notice recipients have been extended the opportunity to respond to their notices by calling witnesses and by making oral and written submissions. This was in addition to the rights they have enjoyed throughout our proceedings to fair and comprehensive disclosure, representation by counsel, and to the examination and cross-examination of witnesses.

In several cases, as a result of the evidence received and/or the submissions made on behalf of the section 13 notice recipients, we have concluded that certain allegations contained within the notices of misconduct were not properly founded or could not be sustained, and we dismissed the allegations. What remains are our findings and conclusions with regard to the individual failings of senior leaders.

A few additional words are called for concerning the portrayal of the actions of individuals that follows. The individuals whose actions are scrutinized are members of the Canadian Forces (CF) who have had careers of high achievement. Their military records, as one would expect of soldiers who have risen so high in the CF pantheon, are without blemish. The Somalia deployment thus represents for them a stain on otherwise distinguished careers. There have been justifications or excuses advanced before us which, if accepted, might modify or attenuate the conclusions that we have reached. These have ranged from "the system performed well; it was only a few bad apples" to "there will always be errors" to "I did not know" or "I was unaware" to "it was not my responsibility" and "I trusted my subordinates". We do not review these claims individually in the pages that follow, but we have carefully considered them.

Also mitigating, to a certain extent, is the fact that these individuals must be viewed as products of a system that placed great store in the "can do" attitude. The reflex to say "yes sir" rather than to question the appropriateness of a command or policy obviously runs against the grain of free and open discussion, but it is ingrained in military discipline and culture. However, leaders properly exercising command responsibility must recognize and assert not only their right but their duty to advise against improper actions, for failing to do so means that professionalism is lost.

What remains, in the cold light of day, are our unburnished and unembellished findings of individual misconduct and failure.

NOTES

1. This is confirmed by QR&O art. 3.21(1), "Command of Commands", which states:
   (1) Unless the Chief of the Defence Staff otherwise directs, an officer commanding a command shall exercise command over all formations, bases, units and elements allocated to the command.
2. Although QR&O art. 4.20 does not refer specifically to "commander", it is understood that the provisions of that article regarding the responsibilities of commanding officers is applicable to all CF commanders.
3. The rank of the individual indicated in the titles of Chapters 27 to 37 is the one held by the individual at the time of receiving the section 13 notification.

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General John de Chastelain

We advised Gen John de Chastelain that we would consider allegations that he exercised poor and inappropriate leadership by failing:

1. To ensure that a proper policy analysis and comprehensive estimate of the situation were undertaken with respect to Operation Deliverance and, accordingly, failing to provide adequate advice to the Minister of National Defence and the Cabinet with respect to these matters;

2. To take steps or ensure that steps were taken to investigate and remedy the significant leadership and discipline problems of which he was aware, or ought to have been aware, within the Canadian Airborne Regiment prior to its deployment;

3. To properly oversee the planning and preparation of Operation Deliverance by allowing the Canadian Airborne Regiment Battle Group to deploy:

   (a) with significant discipline and leadership problems of which he was aware, or ought to have been aware;
   (b) without making provisions for the troops to be trained or tested on the newly developed Rules of Engagement;
   (c) with Rules of Engagement which were confusing, inadequate, and lacking in definition;
   (d) without an adequate Military Police contingent;
   (e) without a specific mission;
   (f) without adequately assessing the impact the manning ceiling of 900 land (army) personnel would have on the mission;

4. **To put in place an adequate reporting system dealing with operational readiness and effectiveness in the Canadian Forces;**

5. **To ensure that all members of the Canadian Joint Force Somalia were adequately trained and tested in the Law of War or the Law of Armed Conflict including the four 1949 Geneva Conventions on the protection of victims of armed conflict; and**

6. **In his duty as Commander as defined by analogy to *Queen's Regulations and Orders* art. 4.20 and in military custom.**

A brief statement concerning Gen de Chastelain's responsibilities is first of all in order, since the nature of his leadership established the tone of operations for those in the chain of command under him. As Chief of the Defence Staff (CDS), Gen de Chastelain occupied the highest post in the military chain of command. He held responsibility for everything that occurred below him. This responsibility is reflected in the relevant provisions of the *National Defence Act*, which states that the CDS under the direction of the Minister is charged with the control and administration of the Canadian Forces (CF). As the senior officer in the CF, the CDS has, among others, the two fundamental duties of providing military advice to the Minister and Cabinet, and carrying out the command, control, and administration of the armed forces.

With this enormous responsibility, it is necessary to have a considerable degree of delegation. The extent to which delegation creates its own direct responsibility, in the form of control and supervision, is discussed further in a separate chapter of this report.[1] For present purposes, we note that many of the failings of the senior leadership, with the exception of specific failings relating to duties that cannot be delegated, can be characterized as inappropriate control and supervision.

Accordingly, although Gen de Chastelain is ultimately responsible for the failures that occurred below him, he is also responsible for what he did or did not do in allowing the failing to occur. In this respect, Gen de Chastelain's primary failure may be characterized as one of nonexistent control and indifferent supervision. Quite simply, at many points in his testimony, Gen (ret) de Chastelain appeared quite prepared to assume that all would have worked out if only because of the successes of his previous achievements and because of the trust he placed in the quality of those selected as his subordinates. This benign neglect, or unquestioning reliance, became so common under Gen de Chastelain's command that it became everyday practice throughout the chain of command below him.

Gen de Chastelain's non-existent control and indifferent supervision created an atmosphere that fostered more failings among his subordinates. Time and time again we heard evidence suggesting the relinquishment of active control and supervision throughout the chain of command. It seems to us that where the top commander within a command chain fails in important respects, those failures will inevitably trickle down. A weakness at the top can thereby easily find expression throughout. Moreover, inadequate control and supervision downward leads necessarily to the inability to properly inform upward: the two are closely linked and make possible a cascading effect in the multiplication of error.

1. **Failure to ensure that a proper policy analysis and comprehensive estimate of the situation were undertaken with respect to Operation Deliverance and, accordingly, failing to provide adequate advice to the Minister of National Defence and the Cabinet with respect to these matters.**

As the CDS, Gen de Chastelain ought to have ensured that a comprehensive estimate of Operation Deliverance requirements, grounded in a thorough policy analysis, was produced and disseminated to all those properly concerned, including, primarily, the Minister of National Defence and the Cabinet. He did not do this. Rather, he directed and encouraged Canadian involvement in Operation Deliverance with little more to rely on than an assumption that equated Operation Cordon with Operation Deliverance requirements, and brief written assurances that any additional technical or logistical support of the new deployment agenda could be met. He stated:

> I think the fact that we had accepted that [Operation Cordon] was doable and Canada should be involved was simply applied to [Operation Deliverance] too, once the operational assessment had been made that we could take part in it.[2]

He followed on this point by stating that discussions on December 4th in an ad hoc committee of Ministers transpired "on the basis that we have the troops, we can do Chapter VI, this is not going to be that much different".[3] No new estimate was done for Operation Deliverance, and analysis was limited to three cursory documents that presented inadequate assessments of troop and equipment requirements.

We fail to see, first, how such requirements could be properly ascertained without a full prior analysis of the mission mandate and tasks. Gen de Chastelain's methodology is erroneous for it amounts to putting the cart before the horse. Furthermore, the assumption that Operation Cordon analyses could be

applied to Operation Deliverance was likewise in error. Operation Deliverance was not advanced as a simple humanitarian peacekeeping mission like its precursor Operation Cordon, but as a Chapter VII mission that, in one staff estimate, could involve armed conflict and attendant casualties.[4]

The CDS thus failed in his responsibility to the government and the CF by failing to ensure a full and proper analysis, especially in view of the changed nature of the mission. While clearly it was Cabinet that made the final decision to participate in Operation Deliverance, this decision was made on the options presented by the Deputy Minister and Gen de Chastelain, who ought to have been aware of problems that would arise from inadequate time, resources, and personnel to properly plan and execute a mission different in nature from Operation Cordon.

2. Failure to take steps or to ensure that steps were taken to investigate and remedy the significant leadership and disciplinary problems of which Gen de Chastelain was aware, or ought to have been aware, within the Canadian Airborne Regiment prior to its deployment.

As CDS, Gen de Chastelain shouldered ultimate responsibility for the command, control, and administration of the CF. Accordingly, he ought to have known of any significant leadership and discipline problems that may have affected deployment for Operation Deliverance. From his position of authority, he ought to have required of his subordinates that they adequately supervise units under their command, that they report to him in a timely, accurate and comprehensive manner, and that they intervene to provide advice, guidance, and remedial action when the circumstances dictated. None of this occurred.

With regard to the removal of LCol Morneault, Gen de Chastelain did not know that concerns about LCol Morneault had been expressed by some senior leaders prior to his appointment as Commanding Officer (CO).[5] He did not know that concerns about LCol Morneault had arisen during preparations for Operation Cordon until the day before LCol Morneault's removal.[6] His only concern upon hearing of these problems was whether a change of leadership would delay the deployment of the troops to Somalia. The only advice he requested and received on this point was from LGen Gervais, who advised him that deployment would not be delayed because a new leader would be appointed who would take full command of the unit. Despite the very unusual circumstances of removing a CO some days or weeks prior to a deployment for an overseas mission, Gen de Chastelain was satisfied with LGen Gervais' simple answer that it would not cause a delay.[7] Gen de Chastelain did not determine the nature of the leadership problem that reportedly necessitated LCol Morneault's removal.[8] He did not require that LGen Gervais, or

anyone else for that matter, provide him with details about the situation, but satisfied himself with a briefing after the fact. He concerned himself only so much as to find out if the change of command had affected the departure schedule.[9] On the whole, Gen de Chastelain was content to place absolute trust in his subordinates to keep him informed of an evidently serious situation.

Similarly, according to his testimony, he knew nothing of the fall 1992 discipline problems in the Canadian Airborne Regiment (CAR) until the day he was informed of the concerns expressed about LCol Morneault. He did not know of the Confederate flag being flown by 2 Commando,[10] or of major disciplinary incidents such as those of October 2 and 3, 1992, or of deficiencies in the training of the CAR.[11] In fact, the only time he was told of disciplinary problems was on December 1, 1992 at a farewell Christmas lunch in Petawawa, when he was told that six soldiers were being left behind for disciplinary reasons, and that the problems had been resolved.[12] Gen (ret) de Chastelain reluctantly admitted that the chain of command was not working properly, in that as CDS, he would want to know of serious disciplinary problems and how they were being addressed.[13]

Gen de Chastelain simply did not know in great detail of any of the above important matters. With his limited knowledge came a failure to act, to direct, and to command. Furthermore, his minimal inquiries encouraged subordinates to copy his uncritical faith in subordinates, to remain passive in their approach to supervision and reporting, and to rely on a custom of reactive intervention.

In this, Gen de Chastelain failed to discharge his responsibilities as CDS. He could have brought to bear through his personal presence and example the considerable weight of his experience and high office in order to directly impress upon his troops the standards of discipline, conduct, and professionalism which he expected of them. He could have done so, but he did not.

3. Failure to properly oversee the planning and preparation of Operation Deliverance by allowing the Canadian Airborne Regiment Battle Group to deploy:

- **(a) with significant discipline and leadership problems of which he was aware, or ought to have been aware;**
- **(b) without making provisions for the troops to be trained or tested on the newly developed Rules of Engagement;**
- **(c) with Rules of Engagement which were confusing, inadequate, and lacking in definition;**
- **(d) without an adequate Military Police contingent;**
- **(e) without a specific mission; and**
- **(f) without adequately assessing the impact the manning ceiling of 900 land (army) personnel would have on the mission.**

Gen de Chastelain was unaware, but should have known, of the serious leadership and discipline problems plaguing the CAR up until the time of its deployment. Gen de Chastelain knew that the Rules of Engagement (ROE) were rushed to completion on December 11th,[14] and should have known that this late timing left inadequate time for proper training on the ROE, but was nonetheless unconcerned.[15] He was similarly unconcerned that the Canadian troops had trained on ROE promulgated for the Yugoslavia mission, even though that mission differed in significant respects from what could be expected of Operation Deliverance.[16] Gen de Chastelain had read the Operation Deliverance ROE very carefully, line by line, before approving them, and he should have known that the wording left an undesirable degree of uncertainty, especially with regard to the interpretation of "hostile intent" and the proportionate use of force in the context of property theft.[17]

Gen de Chastelain knew that the Canadian Airborne Regiment Battle Group (CARBG) was deployed with two Military Police and believed that this number was acceptable, but he should have known at the planning stage, especially with the prospect of significant numbers of detainees, that it was not.[18] Gen de Chastelain knew the CAR was deployed without an adequate mission definition, but should have known that such a deficiency violated basic precepts of military planning. Gen de Chastelain knew of the manning ceiling and was instrumental in deciding upon it, yet took the position that the limit was satisfactory unless informed that there were "show-stoppers".[19] This shows his indifference to the placing of a ceiling on the mission and its impact on the proper planning of the mission.

We find that Gen de Chastelain bore a primary responsibility to ensure that planning and preparations for Operation Deliverance were driven by military imperatives, were properly prioritized, and were carried out in a professional and competent manner. This he did not do. He allowed monetary and political considerations to motivate important decisions regarding the Canadian contingent. He did not assert his leadership to ensure that military priorities were articulated, fixed, and followed. Thus, he did not foster a critical attentiveness to things military. Rather, he allowed important aspects of the planning process, including the six elements mentioned in this subsection, to develop without serious consideration for proper military functioning and without the careful supervision required of the Commander of the CF. In this respect, Gen de Chastelain is to be held accountable for each of the above failings, for he was responsible more than anyone else for the disabling practice of command which they evidence.

4. Failure to put in place an adequate reporting system dealing with operational readiness and effectiveness in the Canadian Forces.

Gen de Chastelain should also have ensured that an adequate operational readiness reporting system was in place at the time of planning Operation Cordon and Operation Deliverance. As CDS, he did not have time to inspect every unit in the CF personally and, therefore, depended on an operational readiness reporting system or reports from his subordinate commanders. Though he knew that the system for determining operational readiness had for a long time been considered inadequate, he held no meetings with his commanders to formally assess the operational readiness of the CF or Land Force Command (LFC) at any time during the planning phase or before deployment to Somalia. Gen de Chastelain chose instead to rely passively on a flawed system. He accepted the operational readiness declaration for Operation Cordon at face value, and stated that there was no reason for him to inquire about it "unless I didn't have confidence in the commanders to tell me what I needed to know or not unless I happened to know something that they may have missed, and neither of them was the case."[20] He similiarly accepted the operational declaration for Operation Deliverance at face value. He should have resolved this systemic problem, which relied on declarations about operational readiness without an established standard of measurement and methods of reporting. Again, Gen de Chastelain failed to adequately ensure that subordinates at LFC would put in place effective systems to monitor operational readiness.

5. Failure to ensure that all members of the Canadian Joint Force Somalia were adequately trained and tested in the Law of War or the Law of Armed Conflict including the four 1949 Geneva Conventions on the protection of victims of armed conflict.

As the CDS, Gen de Chastelain ought to have ensured that all members of the Canadian Joint Force Somalia (CJFS) were adequately trained and tested in the Law of Armed Conflict before they deployed to Somalia, and with enough time for adequate training in them. He did not do this. We know that the Canadian troops received inadequate training in the Law of Armed Conflict, that the soldiers received no written materials on the subject, and that they were generally unprepared in theatre for situations about which they ought to have been knowledgeable. We therefore find that Gen de Chastelain did not adequately ensure that direction, supervision, and instruction regarding training in the Law of Armed Conflict for peace support operations were provided, or that all members of the CJFS were adequately trained.

6. Failure in his duty as Commander as defined by analogy to *Queen's Regulations and Orders* art. 4.20 and in military custom.

Given our findings above concerning the leadership failures of Gen de Chastelain, and in view of the importance of control and supervision within the chain of command, we conclude that Gen de Chastelain failed as a commander.

Notes

1. See Volume 2, Chapter 16, Accountability.
2. Testimony of Gen (ret) de Chastelain, Transcripts vol. 50, p. 10045.
3. Testimony of Gen (ret) de Chastelain, Transcripts vol. 50, pp. 10045–10046.
4. The estimate suggested that a minor conflict over a 30-day period would involve 138 casualties (42 killed and 96 wounded); see Document book 19, tab 6.
5. Testimony of Gen (ret) de Chastelain, Transcripts vol. 49, pp. 9957–9958.
6. Testimony of Gen (ret) de Chastelain, Transcripts vol. 49, pp. 9959–9961.
7. Testimony of Gen (ret) de Chastelain, Transcripts vol. 49, p. 9984.
8. Testimony of Gen (ret) de Chastelain, Transcripts vol. 49, p. 9983; Testimony of LGen Gervais, Transcripts vol. 47, pp. 9464–9466.
9. Testimony of Gen (ret) de Chastelain, Transcripts vol. 49, pp. 9960–9961.
10. Testimony of Gen (ret) de Chastelain, Transcripts vol. 49, p. 9906.
11. Testimony of Gen (ret) de Chastelain, Transcripts vol. 49, pp. 9971–9972.
12. Testimony of Gen (ret) de Chastelain, Transcripts vol. 49, p. 9987.
13. Testimony of Gen (ret) de Chastelain, Transcripts vol. 50, p. 10110.
14. Testimony of Gen (ret) de Chastelain, Transcripts vol. 50, p. 10091.
15. Testimony of Gen (ret) de Chastelain, Transcripts vol. 50, pp. 10095–10096.
16. Testimony of Gen (ret) de Chastelain, Transcripts vol. 50, p. 10098.
17. Testimony of Gen (ret) de Chastelain, Transcripts vol. 50, p. 10089.
18. Testimony of Gen (ret) de Chastelain, Transcripts vol. 50, p. 10112.
19. Testimony of Gen (ret) de Chastelain, Transcripts vol. 50, pp. 10082–1083.
20. Testimony of Gen (ret) de Chastelain, Transcripts vol. 49, p. 10003.

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Lieutenant-General Paul Addy

We advised LGen Paul Addy that we would consider allegations that he exercised poor and inappropriate leadership in the pre-deployment phase of the Somalia mission by failing:

1. To ensure that a proper policy analysis and comprehensive estimate of the situation were undertaken with respect to Operation Deliverance and, accordingly, failing to provide adequate advice to the Chief of the Defence Staff with respect to these matters;

2. To assure himself as to the readiness of the Canadian Airborne Regiment Battle Group, particularly in terms of its discipline, cohesion, and senior leadership, in order to adequately assess the suitability of this Battle Group for Operation Deliverance;

3. To notify his superiors of the nature and extent of the leadership and discipline problems of which he was aware, or ought to have been aware, within the Canadian Airborne Regiment prior to its deployment;

4. To properly plan and prepare Operation Deliverance by allowing the Canadian Airborne Regiment Battle Group to deploy:
   (a) with significant leadership and discipline problems of which he was aware or ought to have been aware;
   (b) without making provisions for the troops to be trained or tested on the newly developed Rules of Engagement;
   (c) [This allegation deleted pursuant to the order dated June 17, 1997 of Mr. Justice Teitelbaum of the Federal Court of Canada.]
   (d) [This allegation deleted pursuant to the order dated June 17, 1997 of Mr. Justice Teitelbaum of the Federal Court of Canada.]

(e) **without a specific mission;**
(f) **[This allegation deleted pursuant to the order dated June 17, 1997 of Mr. Justice Teitelbaum of the Federal Court of Canada.]**

5. **As the Chief of the Defence Staff's principal staff officer for staff operations to advise that an adequate reporting system dealing with operational readiness and effectiveness in the Canadian Forces should be put in place; and**

6. **As the Chief of the Defence Staff's principal staff officer for operations to ensure that all members of the Canadian Joint Force Somalia were adequately trained and tested in the Law of War or the Law of Armed Conflict including the four 1949 Geneva Conventions on the protection of victims of armed conflict.**

During the pre-deployment and part of the in-theatre phases of the Somalia mission, from June 1992 to January 29, 1993, MGen Addy was the Deputy Chief of the Defence Staff, Intelligence, Security and Operations (DCDS (ISO)). He was the principal staff officer for operations of the Canadian Forces (CF) and, additionally, for the period of deployment of the Canadian Joint Force Somalia (CJFS) to the date of relinquishing his appointment, he was the commander of a command positioned in the chain of command between the Chief of the Defence Staff (CDS) and Commander CJFS.

His responsibilities included intelligence, security, and operations. The major responsibilities of the position included advising on and promulgating operational direction to the CF and monitoring CF activity; establishing standards for and monitoring the effectiveness and efficiency of the CF intelligence, security, and operations activities; maintaining an operational readiness system on a forces-wide basis to indicate the operational effectiveness of the CF relative to approved missions and tasks; acting as a commander of a command for all peacekeeping units/formations; and developing and recommending operational training standards for all environments and services in joint operations.[1]

1. **Failure to ensure a proper policy analysis and comprehensive estimate for Operation Deliverance and, accordingly, failing to provide adequate advice to the Chief of the Defence Staff.**

MGen Addy was responsible for ensuring a thorough and timely military estimate for Operation Deliverance was produced, and to alert the CDS to the need for a military estimate that ensured due consideration of all the military implications of participating in the Unified Task Force (UNITAF). Because

he failed in this responsibility, the Canadian Airborne Regiment Battle Group (CARBG) was committed without a clear mission; without an assessment of the tasks it would face; without confirmation of force composition, logistics, or extra support requirements; and without due regard to the time needed for adjusting preparations and additional training for the CARBG. Despite whatever political or bureaucratic pressures may have weighed upon him and his staff, MGen Addy ought to have ensured that a thorough and timely military estimate for Operation Deliverance was completed. A 1996 draft report on the J-Staff system within National Defence Headquarters (NDHQ) noted that poor mission definition and improper timing created significant problems for the CF and the J Staff; that CF capabilities and CF operational planning requirements did not always appear to be considered appropriately; and that a lack of specific military advice for mission definition of military operations impaired the ability of the J Staff to plan and execute military operations.[2] MGen Addy neglected his responsibility with the consequences listed above.

2. Failure to assure himself as to the readiness of the Canadian Airborne Regiment Battle Group, particularly in terms of its discipline, cohesion, and senior leadership, in order to adequately assess the suitability of this Battle Group for Operation Deliverance.

MGen Addy was responsible for maintaining a readiness system on a forces-wide basis for the purpose of assessing the operational effectiveness of the CF relative to approved missions and tasks. However, senior officers shared the belief that the system was deficient and therefore could not serve the evaluation and reporting needs of the Somalia deployment.[3] He should have taken steps to ensure through extra staff effort that an interim system was in place which, as a minimum, would have alerted his commander to the true state of the Canadian Airborne Regiment (CAR) and CARBG. It was MGen Addy's responsibility to assure himself, first, that an adequate system to evaluate operational readiness was put in place; and second, to use his critical expertise to assess the validity of readiness declarations in light of established criteria.

But MGen Addy demonstrated a passive attitude throughout. He did not obtain reports on a regular basis concerning the training being conducted and the state of discipline. For example, he first heard of the CAR's training problems when the de Faye board of inquiry reported accordingly.[4] However, MGen Addy ought to have been informed at a point in time when remedial action could viably have been pursued. Instead, because he did not seek to know, he did not hear. Thus, even when he heard of concerns about leadership in the CAR in October 1992, he did not ask for additional details.[5]

Moreover, MGen Addy demonstrated a cavalier attitude toward the declarations of operational readiness of both the CAR and CARBG. He was unconcerned that the CAR was declared operationally ready on November 13, 1992, just a few weeks after the replacement of its Commanding Officer.[6] He was unconcerned that readiness declarations made their way up the chain of command after the advance party had been deployed and before troops had had time to train in the Rules of Engagement (ROE).[7] In fact, though he ought to have been more concerned at best, he spoke with Col Labbé in a minimal and cursory fashion, before the troops and Col Labbé himself were deployed.[8] Such passivity in these exceptional circumstances is inexcusable.

Furthermore, even though it was his duty as Deputy Chief of the Defence Staff, Intelligence, Security and Operations (DCDS (ISO)) to be the eyes and ears of the CDS, he remained nonetheless uninformed and, therefore, could not and did not advise his commander in an accurate and timely fashion.

3. Failure to notify his superiors of the nature and extent of the leadership and discipline problems of which he was aware, or ought to have been aware, within the CAR prior to its deployment.

Although he ought to have, MGen Addy did not know of the leadership and discipline problems within the CAR, and did not make any inquiries that would have properly informed him.[9] When he learned of the change in the CAR's commanding officer, he ought to have fully informed himself of the situation, but instead relied passively on the information provided to him by his staff and LGen Gervais and MGen Reay. He passively assumed that if any problems requiring his attention had arisen, the relevant person would have informed him.[10]

We do not accept MGen Addy's passivity and neglect. He should have ascertained the precise circumstances of LCol Morneault's removal, determined whether matters of discipline and operational readiness were at issue, and assessed what remedial action was necessary. And he should have ensured that he was accurately informed on such matters as the disciplinary problems within the CAR so that he could provide, in a tangible manner, any necessary guidance on resolving deficiencies.

4. Failure to properly plan and prepare Operation Deliverance by allowing the Canadian Airborne Regiment Battle Group to deploy:

(a) with significant leadership and discipline problems of which he was aware or ought to have been aware;

(b) without making provisions for the troops to be trained or tested on the newly developed Rules of Engagement;

(c) [This allegation deleted pursuant to the order dated June 17, 1997 of Mr. Justice Teitelbaum of the Federal Court of Canada.]
(d) [This allegation deleted pursuant to the order dated June 17, 1997 of Mr. Justice Teitelbaum of the Federal Court of Canada.]
(e) without a specific mission; and
(f) [This allegation deleted pursuant to the order dated June 17, 1997 of Mr. Justice Teitelbaum of the Federal Court of Canada.]

MGen Addy knew or ought to have known that the CAR was facing serious discipline problems during the pre-deployment phase, but he only first became aware of such problems during the de Faye board of inquiry of 1993. MGen Addy knew the CAR was facing a leadership crisis, but failed to inform himself as to whether the problem had been solved by the means suggested by his subordinates. Instead of actively supervising these matters, he simply relied on his subordinates. He stated:

> Q. Again, would it be a matter of assuming that unless you heard to the contrary things were going fine?
>
> A. That is correct. Because until the troops are declared operationally ready to the Chief they are basically the Commander of the Army's problem and if there are any internal problems, I'm sure he would have solved them.[11]

MGen Addy knew that the production and dissemination of the ROE occurred in a rushed manner near the end of the pre-deployment phase, but nonetheless was satisfied that there was sufficient time for the soldiers to become familiar with them.[12] That there was no opportunity for training on the ROE before deployment did not concern him; he appeared to fully expect that there would be training on the Rules of Engagement in theatre.[13] In addition, MGen Addy knew at the time of deployment that a mission statement for Operation Deliverance had not been articulated, and ought to have known that this represented a failure in planning.

Indeed, proper planning and preparations for Operation Deliverance ought to have been a primary concern for MGen Addy. As the principal operations staff officer, he was responsible for taking an active, personal interest in the three remaining items mentioned above, for ensuring that adequate procedures were in place to properly execute the requirements relating to them, and to inform himself adequately so that any apparent problems could be remedied in a timely and appropriate manner. In particular, he ought to have ensured that the ROE for Operation Deliverance were published and disseminated to the troops with enough time to permit proper training in them. He did not fulfil these important responsibilities, but passively left matters to develop without his guidance. He therefore neglected to properly supervise the matters for which he was principally responsible.

5. **Failure as the Chief of the Defence Staff's principal staff officer for staff operations to advise that an adequate reporting system dealing with operational readiness and effectiveness in the Canadian Forces should be put in place.**

As we have stated previously in this report, the CF lacked an appropriate operational readiness reporting system during the pre-deployment phase of the mission to Somalia. As the principal staff officer for operations, MGen Addy was responsible for ensuring that an adequate operational readiness reporting system was put in place before the Canadian contingent was deployed. Considering that the preparations for the mission were rushed, that the original CO for the CAR was removed, that the mission changed mid-stream to a Chapter VII mission, and that disciplinary, training, and leadership problems were well apparent, it was incumbent upon MGen Addy to institute a readiness reporting system at the first opportunity and before the troops were deployed. He did not do this, and the troops were deployed without a proper readiness declaration. We find this an unacceptable abdication of his responsibility.

6. **Failure as the Chief of the Defence Staff's principal staff officer for operations to ensure that all members of the Canadian Joint Force Somalia were adequately trained and tested in the Law of War or the Law of Armed Conflict, including the four 1949 Geneva Conventions on the protection of victims of armed conflict.**

As the principal staff officer for operations, MGen Addy ought to have issued training instructions, doctrines, and manuals on the Law of Armed Conflict before the Canadian troops were deployed to Somalia, and with enough time for them to adequately train in them. He did not do this. We know that the Canadian troops received inadequate training in the Law of Armed Conflict, that the soldiers received no written materials on the subjects, and that they were generally unprepared in theatre for situations about which they ought to have been knowledgeable. We therefore find that MGen Addy failed to provide adequate direction and supervision to ensure the adequacy of Law of Armed Conflict training for peace support operations.

Notes

1. Exhibit P-365.
2. Chief of Review Services, Program Evaluation Division, Draft Report on NDHQ Pre-Evaluation Study E7/95, Functioning of the J Staff (February 1996), p. iii/iv.
3. See Chapter 23, "Operational Readiness"; Document Book 118C, tab 5D; Document Book 118C, tab 2A; Document Book 118C, tab 5C; Document Book 118C, tab 8; Document Book 118C, tab 8F.
4. Testimony of LGen Addy, Transcripts vol. 48, p. 9516.
5. Testimony of LGen Addy, Transcripts vol. 48, p. 9515.
6. Testimony of LGen Addy, Transcripts vol. 48, pp. 9522–9523.
7. Document book 32D.
8. Testimony of LGen Addy, Transcripts vol. 48, pp. 9551, 9555; and see testimony of Col Labbé, Transcripts vol. 161, pp. 32767, 32848, 32907, 32955–32956.
9. Testimony of LGen Addy, Transcripts vol. 48, p. 9517.
10. Testimony of LGen Addy, Transcripts vol. 48, p. 9518.
11. Testimony of LGen Addy, Transcripts vol. 48, p. 9518.
12. Testimony of LGen Addy, Transcripts vol. 48, p. 9570.
13. Testimony of LGen Addy, Transcripts vol. 48, pp. 9568–9571.

29

Lieutenant-General (Retired) James Gervais

We advised LGen (ret) James Gervais that we would consider allegations that he exercised poor and inappropriate leadership in the pre-deployment phase of the Somalia mission by failing:

1. To take steps or ensure that steps were taken to investigate and remedy the significant leadership and discipline problems of which he was aware, or ought to have been aware, within the CAR prior to its deployment, and to notify his superior accordingly.

2. To make provisions for the troops to be trained or tested on the newly developed Rules of Engagement;

3. To put in place an adequate reporting system dealing with operational readiness and effectiveness in the Canadian Land Forces;

4. To undertake a proper estimate of the potential implications of establishing the manning ceiling at 900 land (army) personnel;

5. [This allegation deleted pursuant to the order dated June 17, 1997 of Mr. Justice Teitelbaum of the Federal Court of Canada.]

6. To ensure that all Land Force Command members of the Canadian Joint Force Somalia were adequately trained and tested in the Law of War or the Law of Armed Conflict including the four 1949 Geneva Conventions on the protection of victims of armed conflict; and

7. In his duty as Commander as defined by analogy to *Queen's Regulations and Orders* art. 4.20 and in military custom.

Much of what has been said concerning Gen de Chastelain applies directly to LGen Gervais. LGen Gervais was the commander of the army and therefore bore primary responsibility for ensuring that all troops under his command were fit for duty. His was a position of great responsibility and represented a point in the command chain where many lines of accountability converged. Like Gen de Chastelain, LGen Gervais may be held accountable for any of the failings below him, as well as for his delegatory and supervisory functions, with the additional duty, not shared by Gen de Chastelain, to accurately report information upwards to his superior. We have found, as is set out below, that LGen Gervais shared the same basic flaw as his superior, which was that he routinely relinquished his responsibility to actively control and supervise the important functions within his broad command. We have furthermore found that in addition to this relinquishment, and as a necessary adjunct to it, LGen Gervais many times failed to properly inform his superior of details pertinent to his command. Again, without proper control and supervision, one cannot be properly informed and thus inform others; the weak link again makes possible failures below.

1. **Failure to take steps or ensure that steps were taken to investigate and remedy the significant leadership and discipline problems of which he was aware, or ought to have been aware, within the CAR prior to its deployment, and to notify his superior accordingly.**

As the commander of the army, LGen Gervais carried a primary responsibility to ensure that the troops of the Canadian Airborne Regiment (CAR) were properly equipped and trained for their mission with regard to the important functions of leadership and discipline. To discharge this responsibility, LGen Gervais ought to have taken sufficient steps, either on his personal account or by requesting his staff, to inform himself of the condition of leadership and discipline within the CAR, and to then take adequate measures to remedy apparent deficiencies.

We find that LGen Gervais did not so inform himself, despite the fact that he knew or ought to have known of the possibility of serious deficiencies in the CAR's leadership. According to his testimony, he was advised three times in the early pre-deployment phase that BGen Beno was seriously concerned about the leadership of LCol Morneault. On August 26th, September 17th, and September 24th, LGen Gervais was specifically advised by BGen Beno of these leadership concerns, and that LCol Morneault might have to be replaced.[1] Then on October 20th and 21st in Fort Leavenworth, Kansas, LGen Gervais was involved in discussions with MGen MacKenzie

and MGen Reay about the removal of LCol Morneault, discussions that ranged superficially over the leadership, discipline, and training problems apparent under LCol Morneault's command.[2]

On each of these occasions, LGen Gervais was made aware of problems of a nature so serious as to possibly require the virtually unprecedented removal of a commanding officer (CO) in peacetime. Despite these clear warning signs, LGen Gervais admitted that he did not make specific inquiries. He did not request that his staff investigate the matter and report to him.[3] His 'conversations' with BGen Beno, by his own admission, lacked detail. No notes by LGen Gervais were shown to us of these conversations. No minutes were taken of the Fort Leavenworth deliberations. And when it came to removing LCol Morneault, LGen Gervais failed to inform himself adequately about the new CO and took no greater action than to briefly inform his superior and to suggest that an immediate search for a replacement proceed.[4]

Neither did LGen Gervais follow up on this situation. He did not see the troops until mid-November 1992, and then, which seems alarming to us, made in writing a judgement on the readiness of the CAR in all respects for the forthcoming mission, even though no proper assessment had been undertaken.[5]

In view of the seriousness of the criticisms voiced to him, of the complex situation within the CAR, its past disciplinary problems, and the impending deployment, LGen Gervais should have taken active steps to confirm and monitor the mounting difficulties, or to require his officers and staff to do so and report to him in an accurate and timely fashion. He did not. Rather, he trusted his subordinates to supervise in his stead, and accepted seemingly without question the advice and actions they proposed. As such, LGen Gervais failed to discharge his responsibility to take active steps to impose his standards of leadership, discipline and training on his own troops.

Regarding the removal of LCol Morneault, LGen Gervais allowed circumstances to build to a crisis, substituting informal meetings for a focused review. As the senior officer responsible, LGen Gervais displayed a lack of leadership by acquiescing to advice without probing all the factors, despite his obligation to ensure a process that was fair to all parties concerned. He furthermore refused to institute a board of inquiry into the replacement of LCol Morneault.[6] We find this a grave error on his part. A board investigation would have revealed the extent of the problems within the CAR, and would have ensured a fair examination of circumstances which, in our opinion, were not entirely free of suspicion. BGen (ret) Zuliani testified that he specifically requested that a board of inquiry be convened, but was turned down by the senior generals in the chain of command.[7] In refusing to institute this process, LGen Gervais failed to act in a manner that would have fully informed each of the senior leaders of the facts underlying BGen Beno's concerns.

We might also note that LGen (ret) Gervais testified that he was not specifically aware of the discipline problems in 2 Commando, including the incidents of early October, until late March or early April 1993. LGen (ret) Gervais also testified that had he known about these incidents, he would have asked for the Special Investigation Unit to become involved and, if necessary, for individuals[8] or a sub-unit[9] to be removed from the CAR as unfit to be deployed.[10]

We accept this testimony, but note that it reveals the extent to which LGen Gervais failed in his duty to actively control and supervise. It also reveals the extent to which communications had broken down within the chain of command, and underscores the disturbing custom of laissez-faire command that seems to be at the root of this breakdown.

As one final point, we also find that LGen Gervais failed to properly inform his superior, Gen de Chastelain, about the matters developing within the CAR. Clearly, if LGen Gervais' own knowledge of these matters was deficient, he could not adequately inform his superior in a timely and complete fashion.

2. Failure to make provisions for the troops to be trained or tested on the newly developed Rules of Engagement.

In accordance with his responsibilities as commander of the army, LGen Gervais ought to have ensured that the proper training in the Rules of Engagement (ROE) was conducted before the troops were deployed to Somalia. This he did not do. The evidence suggests that he took no personal interest in ensuring that such training took place, and did not inform himself as to what training had occurred, where it was conducted, and whether it may have been adequate in fully familiarizing the Canadian soldiers on the principles they required. LGen (ret) Gervais testified that the issues of ROE production and training were not brought to his attention.[11] He furthermore stated that late production of the ROE "can be overcome" and that "there is always time to...practise the Rules of Engagement."[12] He also stated that such practice can take place "during the deployment while you are on an aircraft."[13]

We do not agree with LGen Gervais' notion of proper ROE training, and we do not accept his inaction in not informing himself on the state of ROE training during pre-deployment, on whether enough time was permitted for training before deployment, and as to what remedial action was planned to remedy any deficiencies. In these circumstances, in which LGen Gervais ought to have known because of the time frames allotted that ROE training would be inadequate, active supervision and control on his part were called for. His neglect in this manner is unacceptable.

3. Failure to put in place an adequate reporting system dealing with operational readiness and effectiveness in the Canadian Land Forces.

As we have stated previously in this report, the CF lacked an appropriate operational readiness reporting system during the pre-deployment phase of the mission to Somalia. As the Commander of Land Force Command (LFC), LGen Gervais was responsible for all aspects of the training process, including those dealing with the important issue of operational readiness declarations. As such, he ought to have ensured that an adequate operational readiness reporting system was put in place before the Canadian contingent was deployed. Considering that the preparations for the mission were rushed, that the original CO for the CAR was removed, that the mission changed mid-stream to a Chapter VII mission, and that disciplinary, training, and leadership problems were well apparent, it was incumbent upon LGen Gervais to institute a readiness reporting system at the first opportunity and before the troops were deployed. He did not do this, and the troops were deployed without a proper readiness declaration. For his part, LGen Gervais relied on the chain of command and his confidence in his officers to assure him that the troops were ready.[14] We find this an unacceptable abdication of his responsibility to ensure that an objective foundation existed for confirming readiness effectiveness and reporting.

4. Failure to undertake a proper estimate of the potential implications of establishing the manning ceiling at 900 land (army) personnel.

As the Commander of LFC, LGen Gervais bore the direct responsibility of ensuring that a proper estimate of the potential implications of the ill-considered National Defence Headquarters (NDHQ) manning ceiling was undertaken. He did not discharge this responsibility. In his testimony, he stated that he did not know "how the 900 was capped".[15] He could not recall what discussions took place in regard to the 900 figure, and stated with little certainty that "I probably had a discussion with the Chief of the Defence Staff about 900 being — our initial assessment being about right."[16] LGen (ret) Gervais said he "probably" discussed the actual figure with the CDS, and that he thinks he "would have said" that the figure was reasonable, but that, in the end, the manning cap "is just not something that was discussed in the kind of detail you perhaps are alluding to at my level".[17]

We find LGen Gervais' passive acceptance of the manning cap, and his inaction in investigating its implications or attempting to change it, unacceptable. He was the Commander of LFC, and important matters bearing directly on the possible success of a mission are matters that should be discussed at

his "level". Short of this, LGen Gervais ought to have directed his staff to perform a thorough and timely investigation into the implications of the cap, and to have their results communicated to him so that he could take any required action. But LGen Gervais did neither of these, and the manning cap went virtually unchallenged from the senior leaders.

5. **[This allegation deleted pursuant to the order dated June 17, 1997 of Mr. Justice Teitelbaum of the Federal Court of Canada.]**

6. **Failure to ensure that all Land Force Command members of the Canadian Joint Force Somalia were adequately trained and tested in the Law of War or the Law of Armed Conflict including the four 1949 Geneva Conventions on the protection of victims of armed conflict.**

As Commander of LFC, LGen Gervais was ultimately responsible for ensuring that his troops were adequately instructed in the international conventions governing the Law of Armed Conflict. As we have noted in a previous chapter, the training that occurred was inadequate. We therefore find that LGen Gervais failed in his responsibility to adequately control and supervise this important aspect of his command. Given the change to a Chapter VII mission, LGen Gervais ought to have known that training in the Law of Armed Conflict was especially important for the Somalia mission. He should have known that the Canadian troops would encounter a detainee problem. Despite this, however, he did not maintain the supervision and control necessary to ensure that the proper training for such problems took place and must bear responsibility for this failure.

7. **Failure in his duty as Commander as defined by analogy to *Queen's Regulations and Orders* art. 4.20 and in military custom.**

Given our findings above concerning the leadership failures of LGen Gervais, and in view of the importance of control and supervision within the chain of command, we conclude that LGen Gervais failed as a commander.

Notes

1. Testimony of LGen (ret) Gervais, Transcripts vol. 47, pp. 9427, 9435, 9438.
2. Testimony of LGen (ret) Gervais, Transcripts vol. 47, pp. 9457–9460, 9467; Testimony of LGen (ret) Reay, Transcripts vol. 46, pp. 9026–9036.
3. Testimony of LGen (ret) Gervais, Transcripts vol. 47, pp. 9436–9439.
4. Testimony of LGen (ret) Gervais, Transcripts vol. 47, pp. 9460–9469; Testimony of Gen (ret) de Chastelain, Transcripts vol. 49, pp. 9959–9961, 9967.
5. Testimony of LGen (ret) Gervais, Transcripts vol. 47, pp. 9482–9484; Document Book 118B, tab 7.
6. Testimony of LGen (ret) Gervais, Transcripts vol. 48, pp. 9749–9753; Testimony of BGen (ret) Zuliani, vol. 181, pp. 37444–37458.
7. Testimony of BGen (ret) Zuliani, Transcripts vol. 181, p. 37444 and following.
8. Testimony of LGen (ret) Gervais, Transcripts vol. 48, pp. 9674–9676, 9678.
9. Testimony of LGen (ret) Gervais, Transcripts vol. 48, p. 9676
10. Testimony of LGen (ret) Gervais, Transcripts vol. 48, p. 9677.
11. Testimony of LGen (ret) Gervais, Transcripts vol. 48, pp. 9657–9658.
12. Testimony of LGen (ret) Gervais, Transcripts vol. 48, pp. 9658–9659.
13. Testimony of LGen (ret) Gervais, Transcripts vol. 48, p. 9662.
14. Testimony of LGen (ret) Gervais, Transcripts vol. 48, pp. 9728–9730.
15. Testimony of LGen (ret) Gervais, Transcripts vol. 48, p. 9643.
16. Testimony of LGen (ret) Gervais, Transcripts vol. 48, p. 9643.
17. Testimony of LGen (ret) Gervais, Transcripts vol. 48, pp. 9643–9644.

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Lieutenant-General (Retired) Gordon Reay

We advised LGen (ret) Gordon Reay that we would consider allegations that he exercised poor and inappropriate leadership in the pre-deployment phase of the Somalia mission by failing:

1. To take steps or ensure that steps were taken to investigate and remedy the significant leadership and discipline problems of which he was aware, or ought to have been aware, within the Canadian Airborne Regiment prior to its deployment, and to notify his superiors accordingly;

2. To advise that provisions be made for the troops to be trained or tested on the newly developed Rules of Engagement;

3. To advise that an adequate reporting system dealing with operational readiness and effectiveness in the Canadian Land Forces be put in place;

4. To ensure that a proper estimate of the potential implications of establishing the manning ceiling at 900 land (army) personnel was undertaken;

5. [This allegation deleted pursuant to the order dated June 17, 1997 of Mr. Justice Teitelbaum of the Federal Court of Canada.]

6. To ensure that all LFC members of the Canadian Joint Force Somalia were adequately trained and tested in the Law of War or the Law of Armed Conflict including the four 1949 Geneva Conventions on the protection of victims of armed conflict.

We now address these allegations in order.

1. **Failure to take steps or ensure that steps were taken to investigate and remedy the significant leadership and discipline problems of which he was aware, or ought to have been aware, within the Canadian Airborne Regiment prior to its deployment, and to notify his superiors accordingly.**

As Deputy Commander and principal staff officer of Land Force Command (LFC) in the fall of 1992, MGen Reay carried the duties of gathering accurate and timely information concerning the Canadian Airborne Regiment (CAR), and of conveying this information to his commander. LGen (ret) Reay testified that it was his responsibility to represent the commander of the army when necessary, to act as Chief of Staff for LGen Gervais on major policy issues, and to ensure that all appropriate staff work had been completed. He was also responsible for ensuring that the staffs of BGen Vernon and BGen Zuliani were properly co-ordinated so that the information available to the commander was as complete as it could be.[1] In view of these duties, it was incumbent upon MGen Reay to actively investigate, or to ensure that steps were taken to actively investigate, whether the CAR was free of deficiencies regarding its leadership, discipline, and training. It was his responsibility to fully inform himself of any concerns that came to light, and to then render considered advice based on his experience, or in some other way to ensure that any known problems were rectified. He knew or ought to have known that follow-up was essential to make certain that identified problems had been resolved in order to reduce the possibility of in-theatre recurrence.

Despite knowing at an early stage, and although he was reminded subsequently, that problems within the CAR were mounting, we do not find that MGen Reay took any such active investigatory steps. Nor did he sufficiently ensure that problems were adequately rectified. MGen Reay knew from LGen Gervais in September of 1992 of BGen Beno's concerns about LCol Morneault.[2] He knew in September, again from LGen Gervais, of concerns expressed about training and, albeit in sketchy form, about discipline.[3] He knew in early October from MGen MacKenzie about the latter's concerns regarding LCol Morneault when on October 9th, he received a phone call conveying further concerns about training, operational readiness, and discipline.[4]

MGen Reay discussed these matters at Fort Leavenworth on October 20th. At the time, he was informed by MGen MacKenzie of major deficiencies within the CAR including inadequate training and assessment, unresolved leadership and discipline problems, lack of cohesion and efficiency. He also admitted that he may have seen BGen Beno's letter spelling out these deficiencies.[5]

MGen Reay was aware of serious leadership, training, and discipline problems within the CAR as early as September 1992. Although he had received "clear danger signals" that something was wrong in the CAR,[6] which were repeated to him in October, he did not make any specific inquiries about the problems raised.[7] He did not investigate. He did not inquire about details. Rather, he relied on information given to him by MGen MacKenzie and LGen Gervais.[8] There is little evidence that he brought his judgement and experience to bear on the decision to replace the Commanding Officer (CO), or on the need to follow up and supervise proceedings after LCol Morneault's replacement. The decision to remove LCol Morneault was made quickly and raised no concerns for him. MGen Reay relied on BGen Beno and MGen MacKenzie to work things out, stating that "clearly they would come to us if they felt they couldn't deal with the problem themselves".[9] When asked if he did not have an independent obligation to assess whether replacing the CO would effectively resolve the problems, he argued that to do this, one needed to be told of the extent of the problem. And though he stated that MGen MacKenzie adequately explained the situation to them,[10] he also added:

> I don't think there is any doubt that was conveyed to us, but equally and with hindsight, had we known and had he known the full dimension of the problem it might have caused the chain of command to approach its resolution somewhat...differently.[11]

Clearly, MGen Reay was inadequately informed and should have realized this. As Deputy Commander of LFC, MGen Reay had the duty to support his commander by fully and accurately informing him of pertinent details. This he obviously did not do because he testified that he was unaware of the car-burning incident, and LGen (ret) Gervais testified that he did not recall having been advised at all of disciplinary problems within the Regiment until after he had retired, some time in the spring of 1993.[12]

Furthermore, MGen Reay's participation in the refusal to convene a board of inquiry to investigate the circumstances of LCol Morneault's removal was a considerable error, and highlights the extent to which a habit of inactive control and supervision had taken root in the senior leadership. A board of inquiry would have brought to light the unusual circumstances of LCol Morneault's removal, and would have provided requisite information to all within the chain of command.

Finally, MGen Reay failed to inform himself adequately about the incoming CO. MGen Reay subsequently and quickly selected a new CO for LGen Gervais' approval, based on discussions with other leaders and without consulting any personnel records.[13] He also failed to follow up after the change of CO to satisfy himself and his Commander that the serious problems in the CAR were rectified prior to deployment.

2. Failure to advise that provisions be made for the troops to be trained or tested on the newly developed Rules of Engagement.

As Deputy Commander of LFC, MGen Reay ought to have ensured that the rules of engagement (ROE) were produced in a timely fashion in order that the troops could be properly trained in them. He was obliged, accordingly, to ensure that National Defence Headquarters (NDHQ) was aware that a sufficient amount of time specified by him was required, to press the NDHQ to produce the ROE within that time, and to rectify any insufficiencies that may have emerged in the process.

He did not do this. He did not require any change in schedule to facilitate an earlier production of the ROE. Evidently, he did not think earlier production was required. Though he was aware that the ROE were not ratified until December 11, 1992, on the day the advance party was to be deployed, and only two days before the advance party was in fact deployed, he felt there was adequate time to familiarize all the soldiers with the ROE, and properly train them on the ROE.[14] He stated that the ROE could have been taught to the forces an hour or two at night, or during a deployment flight.[15]

We do not accept MGen Reay's inaction regarding such a critical issue as the production of ROE. MGen Reay failed to appreciate the fundamental importance of adequate ROE training, and the need for having adequate time for that purpose. He passively and unacceptably allowed events to occur as they did. He did not emphasize to his commander and to the Deputy Chief of the Defence Staff (DCDS) that more time was needed and, thus, failed in discharging his responsibility.

3. Failure to advise that an adequate reporting system dealing with operational readiness and effectiveness in the Canadian Land Forces be put in place.

As the principal staff officer in LFC, MGen Reay ought to have ensured that an adequate operational readiness system was in place and that a requirement for a formal declaration of operational readiness for Operation Deliverance was ordered. He ought then to have satisfied himself that such declarations were in fact made and made legitimately, and should have ensured follow-up through staff action to remedy any deficiencies uncovered.

He did not do this. First, he ought to have known that the existing operational readiness reporting system was flawed. MGen Reay had been alerted to the serious leadership problems and the numerous disciplinary incidents within the Regiment. Given the short time frame between the time he was alerted, and MGen MacKenzie's declaration of operational readiness,

MGen Reay should have known that everything could not have been rectified within that time and that deficiencies in the reporting system must therefore have existed. Instead of pursuing this matter, and despite knowing the importance of operational readiness declarations,[16] MGen Reay chose to rely on MGen MacKenzie's declaration with an unquestioning acceptance,[17] and without appropriate action to ensure that any deficiencies had been remedied. We find this an unacceptable failure.

Second, the LFC warning order for Operation Deliverance dated December 5, 1992, did not require that the Battle Group be declared operationally ready.[18] Despite LGen (ret) Reay's admission that this was an oversight,[19] there is no evidence suggesting he did anything to remedy this situation. LGen (ret) Reay believed that despite the oversight, there would have been no doubt that an operational readiness declaration of a sort was required and transmitted when LFC transferred the Battle Group over to the Canadian Joint Force Somalia (CJFS) command. However, the formal declaration of operational readiness for Operation Deliverance that issued from LFC occurred after the advance party was deployed.[20] He therefore failed to ensure that a formal declaration based on an objective assessment of the CAR's readiness was prepared and forwarded.

4. Failure to ensure that a proper estimate of the potential implications of establishing the manning ceiling at 900 land (army) personnel was undertaken.

As an element of his larger responsibilities as Deputy Commander, MGen Reay ought to have made certain that a proper estimate of the potential implications of the ill-considered manning ceiling was undertaken. MGen Reay did not do this. Neither did he attempt to ascertain how the 900-personnel number was reached. In his testimony he stated that one possible reason for the number is that "900 is a nice round number".[21] Nor could he remember with any certainty what he did to attempt to increase the number. He stated that "I'm almost certain that I had one or two discussions with General Addy",[22] but then indicated that his underlying attitude was one of passive resignation: "when all was said and done certainly in the month of December was a pretty clear statement that that's the ceiling and you must work within it."[23]

This attitude is unacceptable to us. MGen Reay bore the important responsibility of ensuring that all aspects of the deployment process were carefully considered. He ought to have either taken a personal interest in this matter, or directed one of his many subordinates to investigate and then inform him of the results.

5. **[This allegation deleted pursuant to the order dated June 17, 1997 of Mr. Justice Teitelbaum of the Federal Court of Canada.]**

6. **Failure to ensure that all members of the Canadian Joint Force Somalia were adequately trained and tested in the Law of War or the Law of Armed Conflict including the four 1949 Geneva Conventions on the protection of victims of armed conflict.**

As Deputy Commander and principal staff officer of LFC in the fall of 1992, MGen Reay ought to have ensured that all members of the CJFS were adequately trained and tested in the Law of Armed Conflict before they were deployed to Somalia and that sufficient time was provided for these activities. He did not do this. We know that the Canadian troops received inadequate training in the Law of Armed Conflict, that the soldiers received no written materials on the subject, and that they were generally unprepared in theatre for situations about which they ought to have been knowledgeable. We therefore find that MGen Reay failed to adequately direct and supervise the training on the Law of Armed Conflict for peace support operations.

NOTES

1. Testimony of LGen (ret) Reay, Transcripts vol. 45, pp. 8940, 8941–8942.
2. Testimony of LGen (ret) Reay, Transcripts vol. 45, p. 9006.
3. Testimony of LGen (ret) Reay, Transcripts vol. 45, p. 9005.
4. Testimony of LGen (ret) Reay, Transcripts vol. 45, pp. 9007–9008; this included the throwing of pyrotechnics; Testimony of MGen (ret) MacKenzie, who testified that he informed senior officers at LFC HQ of the throwing of pyrotechnics and the car-burning incident, Transcripts vol. 43, pp. 8525–8528.
5. Testimony of LGen (ret) Reay, Transcripts vol. 46, pp. 9029–9035, 9026–9027; see also Document book 29, tab 7.
6. Testimony of LGen (ret) Reay, Transcripts vol. 45, p. 9006.
7. Testimony of LGen (ret) Reay, Transcripts vol. 45, p. 9010.
8. Testimony of LGen (ret) Reay, Transcripts vol. 46, p. 9039.
9. Testimony of LGen (ret) Reay, Transcripts vol. 46, pp. 9039–9040.
10. Testimony of LGen (ret) Reay, Transcripts vol. 46, p. 9032.
11. Testimony of LGen (ret) Reay, Transcripts vol. 46, p. 9035.
12. Testimony of LGen (ret) Reay, Transcripts vol. 46, pp. 9029–9031, 9192–9199.
13. Testimony of LGen (ret) Reay, Transcripts vol. 45, p. 9019.
14. Testimony of LGen (ret) Reay, Transcripts vol. 46, pp. 9134–9136.
15. Testimony of LGen (ret) Reay, Transcripts vol. 46, pp. 9135–9136.
16. Testimony of LGen (ret) Reay, Transcripts vol. 46, p. 9128.
17. Testimony of LGen (ret) Reay, Transcripts vol. 46, p. 9132.
18. Document book 30, tab 22.
19. Testimony of LGen (ret) Reay, Transcripts vol. 46, pp. 9126–9128.
20. December 18, 1992, Document book 32D, tab 9.
21. Testimony of LGen (ret) Reay, Transcripts vol. 46, p. 9100.
22. Testimony of LGen (ret) Reay, Transcripts vol. 46, p. 9114.
23. Testimony of LGen (ret) Reay, Transcripts vol. 46, p. 9114.

31

Major-General (Retired) Lewis MacKenzie

We advised MGen (ret) Lewis MacKenzie that we would consider allegations that he exercised poor and inappropriate leadership in the pre-deployment phase of the Somalia mission by failing:

1. To take steps or ensure that steps were taken to investigate and remedy the significant leadership and discipline problems of which he was aware, or ought to have been aware, within the Canadian Airborne Regiment prior to its deployment; to notify his superiors of the nature and extent of the leadership and discipline problems of which he was aware, or ought to have been aware, within the Canadian Airborne Regiment prior to its deployment; to properly address the breakdown in the chain of command between the Brigade Commander and the Commanding Officer of the CAR; to take corrective measures to address the leadership crisis and resolve it; and to carry out a proper investigation of the recommendation of Brigadier-General Beno to relieve Lieutenant-Colonel Morneault of his command;

2. To adequately monitor training of the Regiment to ensure its development as a cohesive unit;

3. To make provisions for the troops to be trained or tested on the newly developed Rules of Engagement;

4. To take adequate steps to ensure that the Canadian Airborne Regiment and the Canadian Airborne Regiment Battle Group were operationally ready;

5. **To adequately assess the need for Military Police in the Canadian Airborne Regiment Battle Group and, further, to advise the Commander of Land Force Command of this need;**

6. **To ensure that all Land Force Central Area (LFCA) personnel in Canadian Joint Force Somalia were adequately trained and tested in the Law of War or the Law of Armed Conflict including the four 1949 Geneva Conventions for the protection of victims of armed conflict; and**

7. **In his duty as Commander as defined by analogy to *Queen's Regulations and Orders* art. 4.20 and in military custom.**

Before analyzing our findings, we believe that some important observations should be made about MGen MacKenzie and his approach to leadership and accountability.

MGen MacKenzie was unique among the senior leaders who appeared before us, and were involved in the Somalia deployment, in evincing a proper understanding of and respect for the inquiry process.

MGen (ret) MacKenzie testified before us in an honest and straightforward manner. He alone seemed to understand the necessity to acknowledge error and account for personal shortcomings. We did not always accept everything that he said, but we accept that what he offered us was the truth as he saw it. Unlike some senior officers who appeared before us, he was never less than courteous and respectful in the way that he gave evidence or responded to our questions.

Also, MGen (ret) MacKenzie fully accepted the need for a public accounting of what went on in Somalia. He invariably supported our effort to probe the incidents and events in the wider public interest. We regard his comportment and demeanour throughout his testimony before us as consistent with the highest standards of military duty and responsibility.

To a certain extent, MGen MacKenzie was a victim of his own success. As a bona fide hero of the Canadian Forces, his superiors wanted to parade his successes in front of the troops and our allies. He was therefore tasked to represent the Canadian Forces (CF) in a wide variety of settings to the detriment of his ability to adequately supervise and control those matters that were his core responsibilities. While his superiors are principally to blame for the unbalanced and distracting set of extra-curricular obligations that MGen MacKenzie was asked to assume, he must still carry a share of the criticism since he accepted this role without question or complaint.

1. **Failure to take steps or ensure that steps were taken to investigate and remedy the significant leadership and discipline problems of which he was aware, or ought to have been aware, within the Canadian Airborne Regiment prior to its deployment; to notify his superiors of the nature and extent of the leadership and discipline problems of which he was aware, or ought to have been aware, within the Canadian Airborne Regiment prior to its deployment; to properly address the breakdown in the chain of command between the Brigade Commander and the Commanding Officer of the CAR; to take corrective measures to address the leadership crisis and resolve it; and to carry out a proper investigation of the recommendation of BGen Beno to relieve LCol Morneault of his command.**

As the Commander Land Force Central Area (LFCA), MGen MacKenzie bore the responsibility to actively investigate during the pre-deployment period the significant leadership and discipline problems of which he was aware or ought to have been aware. Having taken these steps, he ought then to have notified his superiors of the problems of which he would then have been informed, and to take decisive remedial steps to ensure these problems were adequately resolved.

MGen MacKenzie was well aware that the Canadian Airborne Regiment (CAR) was facing serious leadership problems in the pre-deployment phase. He was informed by BGen Beno almost immediately upon assuming command at LFCA, and several times thereafter, of concerns raised about LCol Morneault's leadership,[1] and that it might be necessary to replace LCol Morneault. In these communications, MGen MacKenzie was a passive recipient of information: he took no steps to personally investigate the problems he was told about; he did not advise BGen Beno of his opinion concerning what LCol Morneault may have been doing wrong and what his shortcomings may have been;[2] and he took no steps to assert his leadership role as a means of solving the crisis. Rather, he limited his response to expressing over the telephone his confidence in BGen Beno's ability to properly assess and solve the problem,[3] and left the situation to develop on its own.

We find MGen MacKenzie's actions inadequate under the circumstances. By his own admission, the senior command faced a unique situation with the CAR in the fall of 1992. The Commanding Officer (CO) was replaced in mid-stream — a virtually unprecedented move in peacetime — yet MGen MacKenzie remained passive. MGen MacKenzie failed to properly address the breakdown in the chain of command between the Brigade Commander and the CO of the CAR. Though he knew of a mounting crisis that could possibly have compromised the participation of the CAR in the

Somalia mission, MGen MacKenzie failed to take adequate corrective measures to initially prevent the crisis and, subsequently, measures to resolve it satisfactorily.

MGen MacKenzie, although carrying out duties at the behest of his superiors, could have immediately returned from Fort Leavenworth when the decision was made to remove LCol Morneault, and personally visited the CAR to ascertain that the change in leadership proceeded well. The virtually unprecedented removal of a CO in peacetime, indicative of a profound crisis of leadership at a crucial point, was insufficiently canvassed over the telephone,[4] suggesting the removal was made in too casual a manner by the senior officers.

His refusal also to grant LCol Morneault's request for a board of inquiry that would have objectively examined the necessity of his removal and highlighted the extent of the problems in the CAR was an error in judgement.[5] Furthermore, MGen MacKenzie's concern, apparently shared by his superiors, for the "optics" of regimental affiliation in the debate over who should replace LCol Morneault was inappropriate to the extent that it represents a departure from standard selection criteria based on merit.

MGen MacKenzie, perhaps as a result of the distractions created by his superiors' wish to have him appear in disparate venues, also adopted a passive approach in his treatment of the serious disciplinary problems within the CAR (the pyrotechnics and car-burning incidents).[6] Once he learned of the discipline problems, he had ample opportunity to intervene and impose his own standard of discipline upon the CAR, but he did not do so. His trust in BGen Beno to handle the matter,[7] and to inform him if BGen Beno had any serious difficulty was appropriate, but MGen MacKenzie should have verified that the necessary changes were in fact made.[8] After LCol Morneault had been replaced, MGen MacKenzie never inquired as to what measures were taken by BGen Beno or the new CO to restore discipline, trust, and obedience among the troops.

MGen MacKenzie, however, did issue belatedly a revised policy letter on discipline and good order to the Special Service Force (SSF) and other headquarters on November 20, 1992, stressing the importance of the responsibility of senior commanders.[9]

The senior officers to whom MGen MacKenzie reported testified that they were not aware of the car-burning incident (LGen (ret) Reay), or of the full extent of the disciplinary problems (LGen (ret) Gervais). It is not necessary for us to resolve the question of who was told what to conclude that, once informed, MGen MacKenzie should have ensured that his senior commanders personally received a full account of the disciplinary incidents. The crucial decision to replace the CO of the CAR was made by all responsible senior officers without the benefit of first-hand information.

While MGen MacKenzie did take a personal interest in the selection of LCol Mathieu as the new CO of the CAR, he was largely uninvolved after that point. Given the serious nature and extent of the problems within the CAR, we find that he should have taken a closer personal interest in ensuring its operational readiness, particularly in light of the short time that was available to LCol Mathieu as the new CO.

2. Failure to adequately monitor training of that Regiment to ensure its development as a cohesive unit.

MGen MacKenzie did not personally observe any of the CAR training preparations during the pre-deployment phase. He testified that he had no reason to question the information being provided to him by BGen Beno.[10] Nonetheless, MGen (ret) MacKenzie admitted that perhaps he should have personally observed Exercise Stalwart Providence, and that the obstacles (that is, the commitments that he had taken on with the encouragement of his superiors) which prevented his attendance could have been overcome.[11]

After the replacement of the CO, MGen MacKenzie chose to rely on BGen Beno to ensure that LCol Mathieu would implement the existing training plan for the CAR and sort out serious discipline problems.[12] He believed that the documentation of deficiencies in the unit, combined with the policy directive he issued, would give a clear indication as to where the new CO's priorities should lie. However, he should have exercised the closer supervision that was clearly warranted in the circumstances.

3. Failure to make provisions for the troops to be trained or tested on the newly developed Rules of Engagement.

As the Commander of LFCA, MGen MacKenzie ought to have ensured that the rules of engagement (ROE) were produced in a timely fashion so the troops could be properly trained in them. He was obliged, accordingly, to ensure that NDHQ was aware that a sufficient amount of time specified by him was required, to press the NDHQ to produce the ROE within that time, and to rectify any insufficiencies that may have emerged in the process.

He did not do this. He gave no evidence that he required any change in schedule to facilitate an earlier production of the ROE. Though he ought to have known that the ROE were not ratified until December 11, 1992, on the day the advance party was to be deployed, and only two days before the advance party in fact deployed, he offered no evidence of any concern for this constraint, and did not attempt to rectify the problem.

We do not accept MGen MacKenzie's inaction regarding the significant matter of production of the ROE. He failed to appreciate the fundamental importance of adequate ROE training, and the need for having adequate time for that purpose. He passively and unacceptably allowed events to occur as they did. He did not emphasize to his superior that more time was needed and, thus, failed in discharging his responsibility.

4. Failure to take adequate steps to ensure that the Canadian Airborne Regiment and the Canadian Airborne Regiment Battle Group were operationally ready.

MGen MacKenzie anticipated that the mission of the CAR would change from a UN Chapter VI to a Chapter VII operation,[13] but took no special steps to ensure that the CAR was operationally ready for this new task. Instead, again, he relied on BGen Beno to notify him should any shortcomings in the CAR's operational readiness become apparent. Despite having received conflicting messages from BGen Beno and his operations staff on the same day regarding this issue, MGen MacKenzie did not become personally involved.[14]

While his military duty was to ensure the operational readiness of the CAR and the CARBG for the Somalia mission, MGen MacKenzie, as Commander of LFCA, due to competing demands on his time and energy, failed to demonstrate the requisite attention, care, and leadership expected of him under such circumstances. He did not attend the Stalwart Providence operational readiness exercise and instead trusted blindly BGen Beno's phone reports about LCol Morneault. The single visit he made to Petawawa while LCol Morneault was CO was not to address the crisis facing the CAR, but to address a contingent that was being deployed to Yugoslavia. By his presence and personal action, he could have brought his talent and inspirational leadership to bear on the CAR. His visit to Petawawa provided him with an opportunity to ascertain the extent of the breakdown in the chain of command between BGen Beno and LCol Morneault, but he failed to seize it.

5. Failure to adequately assess the need for Military Police in the Canadian Airborne Regiment Battle Group and, further, to advise the Commander of Land Force Command of this need.

Though MGen (ret) MacKenzie agreed that the decision as to the number of Military Police (MP) to be taken to Somalia was as much and probably more his responsibility than any other,[15] he stated in his defence that he was not aware of criticisms expressed both at First Canadian Division Headquarters

(1st Can Div HQ) and Land Force Command Headquarters (LFC HQ) about the lack of Military Police,[16] and that Col Labbé had the authority, once in theatre, to change the configuration. He also stated that Col Labbé could have called him, but did not.[17] The argument that he did not know of these criticisms, is, however, unsatisfactory since he was responsible for ensuring that there was no MP deficiency. He could have directed his staff to check with the appropriate authorities to obtain their views on what the appropriate MP component should be, and communicated that need up the chain of command to MGen Reay and LGen Gervais. He did not do so, however, and relied instead on his subordinates to handle this issue entirely for him.

6. Failure to ensure that all Land Force Central Area personnel in the Canadian Joint Force Somalia were adequately trained and tested in the Law of War or the Law of Armed Conflict including the four 1949 Geneva Conventions for the protection of victims of armed conflict.

As the Commander of LFCA, MGen MacKenzie ought to have ensured that all members of the CJFS were adequately trained and tested in the Law of Armed Conflict before they were deployed to Somalia. He did not do this. We know that the Canadian troops received inadequate training in the Law of Armed Conflict, that the soldiers received no written materials on the subject, and that they were generally unprepared in theatre for situations about which they ought to have been knowledgeable. We therefore find that MGen MacKenzie did not adequately direct and supervise the training in the Law of Armed Conflict for peace support operations.

7. Failure in his duty as Commander as defined by analogy to *Queen's Regulations and Orders* art. 4.20 and in military custom.

MGen MacKenzie had important obligations as a commander and must bear responsibility for the failures that attached to the discharge of those obligations. His role was pivotal, since he was positioned between the Brigade Commander, BGen Beno, and the upper chain of command.

With MGen MacKenzie's absence, required by duties imposed in large measure by his superiors, BGen Beno obtained an unwarranted degree of freedom from oversight. Despite the fact that MGen MacKenzie was necessarily absent from his post due to obligations condoned by his superiors, errors in the chain of command below him remain MGen MacKenzie's responsibility and they, in turn, flow upwards from him to the highest levels of the command structure.

MGen MacKenzie's fundamental failing was that he exercised inappropriate control and provided inadequate supervision, a failing we have seen repeated at levels both above and below him. With that inadequacy came an inability to properly inform his superiors of emerging concerns and difficulties. With this state of affairs came the perpetuation of error.

NOTES

1. Testimony of MGen (ret) MacKenzie, Transcripts vol. 42, pp. 8281–8284.
2. Testimony of MGen (ret) MacKenzie, Transcripts vol. 42, pp. 8296–8298.
3. Testimony of MGen (ret) MacKenzie, Transcripts vol. 42, pp. 8278–8285; see also Testimony of BGen Beno, Transcripts vol. 40, pp. 7871–7872; Testimony of LGen Reay, Transcripts vol. 46, pp. 9038–9039; Testimony of LGen Gervais, Transcripts vol. 47, p. 9490.
4. See Testimony of BGen Beno, Transcripts vol. 41, p. 8082 and following.
5. Testimony of BGen (ret) Zuliani, Transcripts vol. 181, pp. 37455–37446; see also Testimony of MGen (ret) MacKenzie, Transcripts vol. 43, p. 8401.
6. Testimony of MGen (ret) MacKenzie, Transcripts vol. 42, pp. 8317–8320.
7. Testimony of MGen (ret) MacKenzie, Transcripts vol. 43, pp. 8445–8449.
8. Testimony of MGen (ret) MacKenzie, Transcripts vol. 43, pp. 8528–8535.
9. Document book 32A, tab 8.
10. Testimony of MGen (ret) MacKenzie, Transcripts vol. 43, pp. 8341–8344.
11. Testimony of MGen (ret) MacKenzie, Transcripts vol. 43, pp. 8363–8366.
12. Testimony of MGen (ret) MacKenzie, Transcripts vol. 43, p. 8386.
13. Testimony of MGen (ret) MacKenzie, Transcripts vol. 43, pp. 8422–8423.
14. Testimony of MGen (ret) MacKenzie, Transcripts vol. 43, p. 8419; see also Testimony of BGen Beno, Transcripts vol. 41, pp. 7928, 7960.
15. Testimony of MGen (ret) MacKenzie, Transcripts vol. 43, p. 8490.
16. Testimony of MGen (ret) MacKenzie, Transcripts vol. 43, p. 8502.
17. Testimony of MGen (ret) MacKenzie, Transcripts vol. 43, pp. 8500–8502.

32

Brigadier-General Ernest Beno

We advised BGen Ernest Beno that we would consider allegations that he exercised poor and inappropriate leadership in the pre-deployment phase by failing:

1. In declaring the Canadian Airborne Regiment and the Canadian Airborne Regiment Battle Group operationally ready when he knew, or ought to have known, that such was not the case;

2. To notify his superiors of the nature and extent of the leadership and discipline problems of which he was aware, or ought to have been aware, within the Canadian Airborne Regiment prior to its deployment, and, in specific, to advise MGen MacKenzie of:

   (a) his concerns about the state of discipline and the questionable attitudes of members of the Regiment as evidenced by:
      (i) the fact that ammunition had been seized during a search conducted under LCol Morneault's command;
      (ii) the fact that 32 Confederate flags had been seized and that flag was regularly displayed on Base Petawawa;
      (iii) the fact that there were alcohol problems in the Regiment in the weeks and months prior to deployment;
      (iv) the fact that he had identified persons he thought should be left behind when the Regiment was deployed;
   (b) the occurrence of the three October 1992 incidents;

3. To make provisions for the troops to be trained in or tested on the newly developed Rules of Engagement;

4. **To provide adequate guidance to both LCol Morneault and LCol Mathieu as to how to prevent or resolve the discipline problems within the Regiment;**

5. **To ensure that LCol Mathieu resolved the disciplinary and leadership problems within the Regiment prior to its deployment.**

6. **To ensure that all Special Service Force members of Canadian Joint Force Somalia were adequately trained and tested in the Law of War or the Law of Armed Conflict including the four 1949 Geneva Conventions on the protection of victims of armed conflict; and**

7. **In his duty as a Commander as defined by analogy to *Queen's Regulations and Orders* art. 4.20 and in military custom.**

We now address these allegations in order.

1. **Failure in declaring the Canadian Airborne Regiment and the Canadian Airborne Regiment Battle Group operationally ready when he knew, or ought to have known, that such was not the case.**

As the Commander of the Special Service Force (SSF), BGen Beno was responsible for assessing and personally satisfying himself on the state of readiness of the Canadian Airborne Regiment (CAR), and to declare readiness only when he was satisfied that the declaration was fitting.[1] To discharge this responsibility, BGen Beno ought to have actively ensured through objective measures that the CAR was in fact operationally ready when he declared it so. He did not do this.

When BGen Beno declared the CAR operationally ready on November 13, 1992, he knew that a number of notable problems in the CAR still existed and required significant attention.[2] Thus he knew, or ought to have known, that by November 13th very little had been done to address the very serious disciplinary incidents of early October.[3] BGen Beno himself said that these incidents "challenge the leadership of the unit",[4] and on this issue we take him at his word: he knew a concerted, deliberate intervention was required as a response, and he knew that no such intervention had taken place.[5] He also knew that sub-unit leadership, at least with regard to Maj Seward and Capt Rainville, was not at a proper standard.[6] He himself had advised LCol Mathieu to leave both men behind, and he ought to have determined if his advice had been heeded, which it was not.[7] Nothing, in fact, was done in this regard. Finally, BGen Beno knew or ought to have known that the

many training deficiencies noted in Stalwart Providence could not have been and were not resolved by November 13th. If he had put his mind to this matter, there was an array of circumstances he could have considered. He ought to have known that only four weeks had elapsed between the end of the training exercise and the readiness declaration, that the soldiers were on embarkation leave for two of these weeks, that much of the equipment required for further training was unavailable due to deployment preparations, that only a negligible amount of training had been performed after the training exercise, Stalwart Providence, that mission-specific rules of engagement (ROE) had yet to be issued, that the mission-specific training was inadequate, that the CAR had not trained as a regiment, that there was a lack of cohesiveness among units, that the soldiers had not been properly trained in respect of the Law of Armed Conflict, that the individual companies had not by that time been properly assessed by their new Commanding Officer (CO), and that the mere three weeks between the appointment of LCol Mathieu and the November 13th declaration was insufficient to allow for a sufficient integration of the new leader.

Despite this protracted list of obvious deficiencies in respect of discipline, leadership and training, each detail of which BGen Beno knew or ought to have known,[8] and despite having himself stated on October 19th that because of such deficiencies the "unit is *clearly* not 'operational' and will not be so until [they] are resolved",[9] BGen Beno declared the CAR operationally ready on November 13th. This was a serious failure.

BGen Beno's headquarters also issued a readiness declaration on December 10, 1992, for Operation Deliverance.[10] This, too, was a notable lapse of judgement. Regarding this latter declaration, BGen Beno did not at any time personally assess the readiness of the Regiment in light of the significant changes resulting from the move to a Chapter VII United Nations mission, in light of the acute uncertainty over many aspects of the final deployment, and in light of the truncated, hasty planning conducted during pre-deployment preparations. No review was made by BGen Beno of the measures taken to redress any of the outstanding disciplinary concerns,[11] and a comprehensive evaluation of the many training and administrative problems persisting throughout that period was not undertaken.[12] Despite these inadequacies, a readiness declaration was issued.

The issuing of these declarations constituted a considerable failure on the part of BGen Beno.

2. **Failure to notify his superiors of the nature and extent of the leadership and discipline problems of which he was aware, or ought to have been aware, within the Canadian Airborne Regiment prior to its deployment, and, in specific, to advise MGen MacKenzie of:**

   (a) his concerns about the state of discipline and the questionable attitudes of members of the Regiment as evidenced by:
   (i) the fact that ammunition had been seized during a search conducted under LCol Morneault's command;
   (ii) the fact that 32 Confederate flags had been seized and that flag was regularly displayed on Base Petawawa;
   (iii) the fact that there were alcohol problems in the Regiment in the weeks and months prior to deployment;
   (iv) the fact that he had identified persons he thought should be left behind when the Regiment deployed;
   (b) the occurrence of the three October 1992 incidents.

Underlying the present allegation are two important responsibilities of the Commander SSF. First, BGen Beno ought to have informed himself, by personal investigation or otherwise, of any leadership and disciplinary problems within the CAR during pre-deployment preparations. Following this, and as a function of proper communication within the chain of command, he then ought to have informed his superiors, especially MGen MacKenzie, in an accurate and timely fashion of the problems of which he had informed himself. These are important responsibilities that must be discharged in a competent manner. In default of such a discharge, a considerable erosion in the proper functioning of the command structure might occur.

BGen Beno's conduct in informing his superiors as he did was far below standard, and a critical weakness in the command chain occurred as a result. BGen Beno knew that there were acute leadership and discipline problems in the CAR. He knew that ammunition had been seized during a search ordered by LCol Morneault.[13] He knew that several Confederate flags had been seized, and must have seen it displayed on the base premises.[14] He knew of individuals who should not be deployed to Somalia.[15] He was intimately aware of the three significant incidents of October 2nd and 3rd — the disturbance at the junior officers' club, the expending of pyrotechnics at Algonquin Park and, especially, the torching of a vehicle belonging to the 2 Commando duty officer. He also knew the CAR had a significant history of disciplinary problems.[16] Though he testified that he was unaware of any alcohol problems,[17] he ought to have recognized the strong possibility that alcohol was partly responsible for the disciplinary problems within the CAR, and he ought to have known from his own observation that alcohol misuse was frequent, as it was easily detectable.

He also ought to have known that this alarming list of problems during the pre-deployment phase of an important overseas mission ought to have been communicated in a timely and accurate manner upward in the chain of command. But the communication that did take place was clearly inadequate. BGen Beno never spoke to MGen MacKenzie in full detail or MGen MacKenzie's Chief of Staff about the October incidents.[18] He did not inform MGen MacKenzie that alcohol problems were apparent within the CAR.[19] He did not inform MGen MacKenzie of the use of the Confederate flag or of the ammunition seizures, or of the list of individuals he had identified to be left behind. BGen Beno could recall no discussions with MGen MacKenzie about disciplinary problems after sending a letter on October 19th to him in which he briefly mentioned them.[20]

Neither did he know what information may have been passed to LGen Gervais or MGen Reay, for, as he stated, he himself "did not deal with General Reay or General Gervais" and he himself passed "nothing" to them.[21] We note in this context that BGen Beno was, on the other hand, quite eager to inform LGen Gervais — on several occasions — that LCol Morneault was failing in his command. This discrepancy, in our opinion, speaks for itself.

Had BGen Beno adequately informed MGen MacKenzie or any of the other senior leaders in greater and more complete detail of the many aspects of the many leadership and disciplinary problems in the CAR, both might have been dealt with effectively. In the complete absence of timely and accurate communications concerning important aspects of the unit to be sent overseas, we are at a loss to understand how BGen Beno could have expected the command chain to exercise the control and supervision proper to its mandate. It did not, and the result is not surprising.

3. Failure to make provisions for the troops to be trained or tested on the newly developed Rules of Engagement.

As the Commander SSF responsible for pre-deployment training preparations, BGen Beno ought to have ensured that the CAR was adequately trained and tested on the ROE developed specifically for the Chapter VII Somalia mission. In light of the uniqueness of this deployment, BGen Beno ought to have taken a personal interest in this issue to guarantee that all matters regarding the use of force were clearly understood, but he did not. He did not devise, direct or order any ROE training. He did not himself supervise any ROE training. Though he stated that he "pushed right to the last minute"[22] for ROE to be issued, he was, in our opinion, unconcerned about the fact that no time remained from the time of issuance for any proper training to be

conducted. According to BGen Beno, soldiers do not need to "be practiced in the specific Rules of Engagement",[23] and ROE training need amount to no more than a "mental exercise"[24] that "can be done in an airplane".[25]

We do not agree with BGen Beno's opinions. Adequate ROE training cannot be performed "in an airplane". And it requires much more than a classroom-style "mental exercise". We furthermore find it difficult to credit BGen Beno's concerns that the troops did not have the Rules of Engagement during training, and that they did not have a lot of time to practise them in the environment of Petawawa.[26] Given his view of the relative unimportance of mission-specific ROE training, and his professed ideas concerning the nature of such training and what it should accomplish, he would have had little reason for the concern he claimed. He demonstrated no such concern in his actions: at best, BGen Beno did nothing more in respect of ROE training than to aid in the production of 'a soldier's card'.[27]

BGen Beno had a duty to ensure that the members of the CAR fully understood the ROE and were adequately trained and practised in the ROE before deployment. He failed to discharge this duty.

4. Failure to provide adequate guidance to both LCol Morneault and LCol Mathieu as to how to prevent or resolve the discipline problems within the Regiment.

As an aspect of his responsibility to actively supervise his subordinates, BGen Beno ought to have provided adequate guidance to both LCol Morneault and LCol Mathieu regarding the serious disciplinary problems within the CAR. BGen Beno knew of the seriousness of these problems,[28] he knew that the CAR — and especially 2 Commando — had a history of disciplinary problems,[29] and he knew that little time remained before deployment to effectively deal with them. He also knew that a concerted, deliberate effort was required regardless of any such time constraints. Despite such knowledge, BGen Beno failed to intervene with the appropriate guidance.

With regard to LCol Morneault, BGen Beno ought to have supported his attempts to sort out discipline problems, and, in particular, ought to have either supported the plan to threaten to leave 2 Cdo behind or offered an alternative. BGen Beno did neither and flatly stated to LCol Morneault: "No, I will not support you. You are elevating the problem to my level. It is your problem, you sort it out."[30] However, we agree with LGen (ret) Gervais that the problem should in fact "have been sorted out within the brigade unit level",[31] and furthermore that if it had been found to be "a bigger problem than individuals", as it was, the appropriate solution would have been to "leave the Commando out of the operation and replace it with another company".[32]

It was incumbent upon BGen Beno to assume supervisory responsibility for these disciplinary problems and to involve himself in some perceptible manner in aiding LCol Morneault to resolve them. He did not.

When LCol Mathieu took over command of the CAR, BGen Beno again left the resolution of the serious disciplinary problems to the newly arrived CO. Beyond expressing reservations about the suitability of certain officers and making suggestions regarding the reassignment of a number of soldiers within the Regiment, BGen Beno's actions were insufficient to assist LCol Mathieu in resolving the disciplinary problems.

Neither did he offer guidance in terms of any deficiencies in LCol Mathieu's attempts to deal with them. Although these deficiencies were clearly apparent, BGen Beno did not monitor LCol Mathieu, though he ought to have, and did not appropriately advise LCol Mathieu on how a satisfactory resolution could be sought. He left the matter entirely in the hands of the new CO and did nothing himself after that point.[33]

5. Failure to ensure that LCol Mathieu resolved the disciplinary and leadership problems within the Regiment prior to its deployment.

BGen Beno also ought to have actively involved himself and ensured that the discipline and leadership problems were in fact resolved before the troops were deployed.

Despite BGen Beno's testimony that LCol Morneault's failure to resolve the discipline and leadership problems factored significantly in the removal of LCol Morneault, BGen Beno concerned himself little with these problems subsequent to replacing LCol Morneault.[34] He in fact did no more than brief LCol Mathieu on the disciplinary situation and to suggest that certain officers not be deployed and that certain soldiers be reassigned within the Regiment. He then abdicated any further supervisory role and relied entirely upon LCol Mathieu's assurances that the issues had been properly dealt with. He did not inquire beyond these assurances but remained passive and uninvolved.[35]

BGen Beno's passivity did not go unnoticed. LGen (ret) Gervais testified that BGen Beno was "not aggressive enough" and that "he should have been more direct" with respect to these disciplinary issues.[36] LGen (ret) Reay also testified that BGen Beno ought to have done more:

> [A]s I look back, and I look back particularly at the brigade commander, I believe...that General Beno was not aggressive enough personally to satisfy himself that the problem [had] been resolved, or that suggestions that he had made were not necessarily being honoured.... I believe that there were some things that he could and should have done knowing what he did.[37]

As a result of BGen Beno's passivity, and his failure to ensure personally that serious disciplinary problems were resolved before the deployment, these problems accompanied the CAR to Somalia.

6. Failure to ensure that all Special Service Force members of the Canadian Joint Force Somalia were adequately trained and tested in the Law of War or the Law of Armed Conflict including the four 1949 Geneva Conventions on the protection of victims of armed conflict.

As a general in the Canadian army, BGen Beno ought to have known that an understanding of the Law of Armed Conflict and related military doctrine is essential for the lawful conduct of military operations, and that all soldiers should be familiar with these basic legal obligations in situations of potential or actual conflict. BGen Beno thus ought to have ensured that the CAR was adequately trained in these essential legal principles. He failed in his duty to do so.

Little attention was paid to Law of Armed Conflict training, and the relatively brief lecture given by LCol Watkin on December 10, 1992, almost immediately before deployment, could not possibly communicate all the information needed by CF members to understand and apply the Law of Armed Conflict and the Geneva Convention doctrines.[38] Nor was the information given in this lecture adequately disseminated. Finally, even if it had been, such so-called dissemination is inadequate to the task, given the depth of understanding that soldiers must acquire concerning these fundamental principles. BGen Beno ought to have understood this and taken steps to remedy the deficiency.

7. Failure in his duty as a Commander as defined by analogy to *Queen's Regulations and Orders* art. 4.20 and in military custom.

Given our findings above concerning the leadership failures of BGen Beno, and in view of the importance of control and supervision within the chain of command, we conclude that BGen Beno failed as a commander.

NOTES*

1. Testimony of BGen Beno, Transcripts vol. 40, p. 8089.
2. Many of these problems are mentioned in his letter of October 19, 1992 requesting the removal of LCol Morneault. Document book 15, tab 18.
3. BGen Beno knew that the specific action taken amounted to little more than the posting out of six individuals for disciplinary reasons, but he did not know specifically who was left behind and for what reason. Testimony of BGen Beno, Transcripts vol. 41, pp. 7925, 7929–7930, 7938–7939, 8096.
4. Document book 15, tab 18.
5. BGen Beno testified that he left the resolution of these matters entirely in the hands of LCol Mathieu, and that he did not inquire beyond LCol Mathieu's assurances that the problems were being resolved. Testimony of BGen Beno, Transcripts vol. 41, pp. 7929, 7939, 7943. BGen Beno also rightly admitted responsibility for the actions LCol Mathieu took to resolve the problems. Testimony of BGen Beno, Transcripts vol. 42, p. 8136.
6. Testimony of BGen Beno, Transcripts vol. 41, pp. 7947–7948.
7. Testimony of BGen Beno, Transcripts vol. 41, pp. 7947–7948; Testimony of LCol (ret) Mathieu, Transcripts, vol. 168, pp. 34619–34625.
8. Testimony of BGen Beno, Transcripts vol. 40, pp. 7801, 7849–7851; vol. 41, pp. 7964–7965; Document book 15, tab 27.
9. Document book 15, tab 18 (emphasis added).
10. See DND 026433.
11. BGen Beno relied entirely on LCol Mathieu's assurances. Testimony of BGen Beno, Transcripts vol. 41, pp. 7925, 7929, 7939, 7943, 8058; Testimony of LCol (ret) Mathieu, Transcripts vol. 168, pp. 34619–34668.
12. BGen Beno received "briefings" from LCol Mathieu regarding administrative preparedness. He also admitted that there was no table of organization and equipment prepared for Operation Deliverance, such table being a crucial component of administrative preparation. Testimony of BGen Beno, Transcripts vol. 41, pp. 7967–7969.
13. Document book 4, tab 4.
14. Testimony of BGen Beno, Transcripts vol. 42, p. 8134; Evidence of BGen Beno, BOI, vol. 2, p. 260. See Testimony of Maj Wilson who recalls having seen it on the base from time to time. Transcripts vol. 28, pp. 5415–5416.
15. Testimony of BGen Beno, Transcripts vol. 41, pp. 7918-7919.
16. See Testimony of Maj Seward, Transcripts vol. 30, p. 5737.
17. Testimony of BGen Beno, Transcripts vol. 41, pp. 7953-7954.
18. Testimony of BGen Beno, Transcripts vol. 41, pp. 8065-8066; Testimony of MGen (ret) MacKenzie, Transcripts, vol. 42, pp. 8317–8320.
19. Testimony of MGen (ret) MacKenzie, Transcripts vol. 43, p. 8481.
20. Testimony of BGen Beno, Transcripts vol. 41, p. 8064.
21. Testimony of BGen Beno, Transcripts vol. 41, p. 8064.
22. Testimony of BGen Beno, Transcripts vol. 41, p. 7977.

* The Chairman did not participate in the deliberations of the Commissioners dealing with the conduct of BGen Beno in relation to the charges or allegations that were the subject matter of his section 13 notice.

23. Testimony of BGen Beno, Transcripts vol. 41, p. 7975.
24. Testimony of BGen Beno, Transcripts vol. 41, p. 7975.
25. Testimony of BGen Beno, Transcripts vol. 41, p. 7977.
26. Testimony of BGen Beno, Transcripts vol. 41, p. 7977.
27. Testimony of BGen Beno, Transcripts vol. 41, p. 7977.
28. See Document book 15, tab 18. Also see Testimony of LCol Morneault, Transcripts vol. 36, pp. 6973–6976.
29. See Testimony of Maj Seward, Transcripts vol. 30, p. 5737.
30. Testimony of LCol Morneault, Transcripts vol. 36, pp. 6975-6976.
31. Testimony of LGen (ret) Gervais, Transcripts vol. 48, p. 9759.
32. Testimony of LGen (ret) Gervais, Transcripts vol. 47, p. 9470.
33. Testimony of BGen Beno, Transcripts vol. 41, pp. 7925, 7929, 7939, 7943, 8058.
34. See, for example, Testimony of BGen Beno, Transcripts vol. 40, p. 7862.
35. Testimony of BGen Beno, Transcripts vol. 41, pp. 7925, 7929, 7939, 7943, 8058.
36. Testimony of LGen (ret) Gervais, Transcripts vol. 49, p. 9792.
37. Testimony of LGen (ret) Reay, Transcripts vol. 46, pp. 9038-9039.
38. We do not fault LCol Watkin for this.

33

Colonel Serge Labbé

We advised Col Serge Labbé that we would consider allegations that he exercised poor and inappropriate leadership by failing:

1. [This allegation deleted pursuant to the order dated June 17, 1997 of Mr. Justice Teitelbaum of the Federal Court of Canada.]

2. [This allegation deleted pursuant to the order dated June 17, 1997 of Mr. Justice Teitelbaum of the Federal Court of Canada.]

3. To ensure that all members of the Canadian Joint Force Somalia, including particularly members of the Canadian Airborne Regiment Battle Group, were trained, tested on, and understood the Rules of Engagement as issued by the Chief of the Defence Staff;

4. To ensure that all members of the Canadian Joint Force Somalia were adequately trained and tested in the Law of War or the Law of Armed Conflict including the four 1949 Geneva Conventions on the protection of victims of armed conflict.

5. In his duty as Commander as defined by analogy to *Queen's Regulations and Orders* art. 4.20 and in military custom.

We now address these allegations in order.

3. Failure to ensure that all members of the Canadian Joint Force Somalia, including particularly members of the Canadian Airborne Regiment Battle Group, were trained, tested on, and understood the Rules of Engagement as issued by the Chief of the Defence Staff.

The role of the Commander in developing and ensuring a proper understanding and appreciation of the rules of engagement is crucial to the success of a mission. The necessity of developing such an understanding through training on the rules of engagement (ROE) is of prime importance in military operations. Other armies that took part in the Somalia operation recognized the importance of pre-deployment training in the ROE. Maj Kelly of the Australian army recently stated:

> It is important that the commanders of the contingents examine carefully the management of the application of force in peace operations. In this respect the commanders must appreciate the differing circumstances of operations so that they will understand that peace operations are closer in nature to what used to be termed "counterinsurgency operations" and are now given the generic term "low-intensity conflict". Those commanders who are not sensitive to the subtleties of such operations should not be appointed.[1]

An American expert stated about the pre-deployment experience in training on the ROE for Somalia:

> The ROEs without...training hypotheticals were practically useless. In order to adequately train the soldiers they would have to be faced with hypothetical scenarios. The soldier... would then have to mentally challenge themselves to apply the ROEs to the specific hypothetical situation and then immediately give a quick snap judgment response. This was realistic training and it made sense that the commander wanted his troops trained in this manner.[2]

Within the CF, LCol Nordick testified at our policy hearings about the importance of understanding of and adequate training on the ROE. He based his testimony on his previous experience in five UN peacekeeping missions and, more specifically, his experience commanding the 3rd Battalion, Princess Patricia's Canadian Light Infantry, in Croatia beginning in July 1992.

> In peacekeeping and in war the correct use of [the] ROE often requires an immediate decision or instantaneous action by one or more soldiers who are located at an isolated observation post or checkpoint. In many instances these soldiers are afraid, possibly even angry. In spite of the dangerous circumstances, we expect that discipline, training and strict direction on the controlled use of force will permit that soldier to make the right decision, often in the blink of an eye.... [Therefore] it is imperative that the rules of engagement be clearly understood both in theory and in practice.[3]

In his expert view, there were five steps to the ROE: an understanding of the ROE, the actual teaching of the ROE to soldiers, in-theatre ROE instruction, properly amending the ROE, and after-action reporting on the

ROE.[4] His first priority, in the pre-deployment and training phase, was to ensure that he and his principal commanders understood both the mandate and the rules of engagement:

> This was done by reading into the operation, by conducting in-theatre reconnaissance, by holding discussions with United Nations and national commanders, by studying the United Nations and national standard operating procedures and directives and holding internal battalion discussions on the theory of ROE and the technicalities of amending it.
>
> Based on this research, we built a bank of scenarios that we used to instruct the soldiers in the two key areas that have already been mentioned, and that is the rule of engagement itself and the rule of self-defence. The areas of discussion that we focused on were the minimum use of force, use of light force — and that's one that was not mentioned before; in most United Nations operations, if someone shoots at you with a rifle, you are to reply with a rifle if possible — categorization of incidents, stressing the difference between a rock-throwing incident and a grenade-throwing incident; crowd control; co-ordinate search operation; prevention of attacks on civilians; protection of United Nations installations; protection of arms caches; arrest and detention procedures; and confiscation of weapons.[5]

Cmdre Cogdon, the Chief of Staff J3 at this time, stated that "Rules of engagement have to be translated down to every single soldier in the regiment...".[6] He went on to say, "There must be an understanding of the rules and there must be training with the rules."[7] He added:

> Colonel Labbé and all of his subordinates were so concerned about getting things going and moving it all they did not have time to spend any time on rules of engagement in the general sense. So we started to take on additional responsibilities and the particular issue I'm talking about is producing the little cards which, in my opinion, were — it's never an NDHQ responsibility at all, it's a commander's in the field — translation of the rules of engagement down to his troops and to the levels he sees has to be down there and that should never have been us to produce them.[8]

Although Cmdre Cogdon's staff helped in producing the soldier's cards, he argued that this was the responsibility of the commander in the field:

> My opinion was that in fact it was absolutely mandatory for the commander and, in particular, the commander down the line who was actually controlling the soldiers to have understood these carefully and know exactly what they mean when they apply to his soldiers and, therefore, he is the guy that knows the soldiers best and he knows how to define that to his soldiers.[9]

As the senior officer of the Canadian Forces deployed to Somalia, Col Labbé ought to have determined whether the troops under his command had been sufficiently trained in and were knowledgeable about the Rules of Engagement and ought to have taken remedial steps if deficiencies in these areas were apparent.

Col Labbé's testimony indicates that he assumed that when the CAR was declared operationally ready, it "would have had to have been declared ready to go based on complete training".[10] In other words, "complete training" implied training on everything required for the mission, including "Rules of Engagement, laws of war and the Geneva Conventions".[11] Col Labbé testified further that he was justified in drawing this conclusion from a brief verbal interaction with LCol Mathieu: " I do recall asking him something like, 'Are the boys good to go?' And he said, 'Absolutely.' Or words to that effect."[12]

Relying on this brief interaction, Col Labbé then admitted at several points in his testimony to knowing very little about the troops' state of ROE training at the time of deployment. Moreover, Col Labbé vigorously maintained that despite this limited knowledge, his actions were nonetheless justified based on training assumptions he was entitled to make as Commander. Thus, when asked whether he was aware of the training conducted for Operation Deliverance or Operation Cordon and whether he was aware of the training plans developed for the two missions, he stated:

> No, I was not. But again, implicit in my question to Colonel Mathieu and his response being positive is that it had all been done. And of course no unit would be deployed without all the training, including ROE, Law of War, Geneva Convention training, all this being completed before operational readiness and deployment.[13]

Questioned about whether he discussed with LCol Mathieu whether additional training might be useful upon arrival in Somalia, he replied:

> No. We did not discuss that because, quite frankly, knowing the kind of training that goes into pre-deployment and knowing that Colonel Mathieu knows just as well as I do the kind of training that goes into pre-deployment for an infantry battle group, which is what he was commanding, I had no concerns.[14]

When asked further whether he felt any general concerns about training readiness, Col Labbé reiterated his faith in LCol Mathieu's abilities as CO:

> So given that there was nothing to lead me to believe that [there] was a training problem within the Airborne Regiment prior to Lieutenant-Colonel Mathieu taking over and that I have confidence in his training capabilities, his answer to me was sufficient for me to believe, given all the other things I had to do, which one of them was to, of course, prepare an operationally ready joint force headquarters that was given

> only five days to deploy, which we achieved, and get myself ready and other all other things we had to do, prepare the orders for joint force and so on, I believe that I apportioned my time in a responsible and proper way and I maintain and I stand by that.[15]

Col Labbé was asked more specifically whether the soldiers had adequate time to train on the ROE issued for Operation Deliverance and stated in reply:

> I don't know what Colonel Watkin talked to the Airborne Regiment NCOs and officers about on the 10th of December, indeed how long he talked to them for and whether or not he dealt with the new Rules of Engagement which, in fact, were available at that point in time, or certainly a draft copy and it would be quite appropriate to work off a draft copy...[16]

He testified in a more precise way about what LCol Mathieu said to him regarding ROE training:

> He did mention in passing that there was a session, I don't know the length of it, between — or with Lieutenant-Colonel Watkin from the JAG office and another legal officer in Petawawa I think on the 10th of December.[17]

Asked whether the information presented at this meeting was passed down to the troops, Col Labbé stated:

> I recall vaguely that he mentioned that the officers had had sessions with their troops in the presence of the NCOs, it had been discussed and that he felt comfortable that despite the short period of time, and also given the time they had in Baledogle that they had a knowledge of the Rules of Engagement necessary to conduct operations.[18]

Finally, when asked whether he was aware that Maj Seward did not pass this information on to his troops, Col Labbé stated, "That's news to me, sir."[19]

As well, at the time of the deployment of the troops to Somalia, the development of the ROE was being rushed to completion.[20] However, in his personal chronology describing the incredible pace of events during this period, Col Labbé wrote that on December 9, 1992:

> It dawns upon me we are deploying within 24 hours with no soldier's cards for Rules of Engagement. Also, these are only draft Rules of Engagement. The Chief of Defence Staff must approve and he is still in Europe. Nevertheless, we must have something and this is the best available. Must rely on chain of command to disseminate.[21]

On December 11, 1992, Col Labbé received the approved ROE, incorporating them in his operation order. He commented:

> I am advised J3 Plans in National Defence Headquarters will produce copy of a soldier's card for Rules of Engagement, plasticized in French and English. I tell my staff to ensure cards are sent to the Airborne as soon as available.[22]

Thus, Col Labbé deployed to Somalia without first ensuring that the troops under his command had already received their soldier's cards on the ROE.

Later in his testimony, Col Labbé summarized his knowledge of ROE training for the Canadian troops in this way:

> To the best of my knowledge [Lieutenant-Colonel Mathieu] had a session on the 10th of December, he very likely did more training, whether he did it in Canada or did it upon arrival in Baledogle during the 48 hours they were in the aircraft in between box lunches and sleep. There were multiple opportunities for that training to take place, recognizing that the real significant difference between Cordon and Deliverance was, in fact, the ROE and that that was the one area... of focus that he would have to focus on.[23]

Col Labbé makes much of the fact that he asked LCol Mathieu, "Are the boys ready to go?", that he, in effect, meant that he expected them to be ready in every way, including operationally ready and conversant in the Rules of Engagement. At the time this conversation took place, probably on December 7th but possibly on the 8th, the approved rules of engagement still had not been issued. Col Labbé did not receive them until December 11th. Col Labbé knew that the CARBG could not be fully prepared and up to speed on the ROE, even if he accepted at face value that his troops were fully prepared in every other area. If it can be said that as a commander Col Labbé should have assured himself of one thing, in terms of relative importance, that one thing should have been the soldiers' working knowledge of the ROE before they were allowed to be employed. In this important regard, he failed to respect a basic principle of leadership that recognizes the importance of caution and never taking things for granted and that emphasizes the need to "check and then recheck".

Beyond some superficial knowledge of a December 10th lecture and a vague recollection of subsequent sessions, Col Labbé simply was unaware of what ROE training had been conducted. Moreover, he did not take issue with suggestions concerning his ignorance in this area. He was not aware that the training conducted was with regard to ROE developed for the former Yugoslavia, a completely different theatre involving very different tactical, logistical and training considerations.[24] He did not know that simulated ROE training for a Chapter VII mission had not occurred. In place of

personally acquired knowledge, he conveniently relied on an assumption that an operational readiness declaration signified that the appropriate training had in fact taken place.

Moreover, the view of the nature of ROE training conveyed in his testimony was grossly inadequate. Contrary to his assertions, effective ROE training cannot be conducted in an aircraft between box lunches and sleep.[25] The ROE involve the circumstances in which a soldier may be justified in taking the life of a fellow human being. Col Labbé's cavalier approach to ROE training amounts to little more than lip service and, in effect, denies the sanctity of human life. It is irresponsible and an affront to the concept of modern military training that a commander of Canadian overseas forces would suggest that such a training method was acceptable.

Although his lack of knowledge of the state of training at the time of deployment and his view of the nature of ROE training are profound shortcomings in a commander, even more lamentable and inexcusable is Col Labbé's failure to take action to determine whether his troops in fact trained adequately on the ROE developed by the Chief of the Defence Staff and understood them properly. He erroneously placed his trust in the sufficiency of a readiness declaration issued before the ROE were prepared and relied unduly on casual or incomplete comments regarding readiness from his subordinate, LCol Mathieu. Col Labbé performed no independent inquiry to determine whether any deficiencies in training existed and required correction. He failed to ensure that the members of Canadian Joint Force Somalia were trained in the ROE and understood them properly.

4. Failure to ensure that all members of Canadian Joint Force Somalia were adequately trained and tested in the Law of War or the Law of Armed Conflict including the four 1949 Geneva Conventions on the protection of victims of armed conflict.

A commander has important obligations with regard to the Law of Armed Conflict:

> Napoleon urged aspiring commanders 'to read and re-read the deeds of the Great Commanders' arguing that this 'is the only way to learn the art of war'. Today, it would be apt to add that aspiring commanders should also 'read and re-read' the ICRC's [International Committee of the Red Cross] Fundamental Rules of International Humanitarian Law and the 1949 Geneva Conventions and 1977 Protocols. This is because the Geneva Conventions and Additional Protocol I (which has universal application) bind all commanders and individual soldiers in the armed forces of any state engaged in international armed conflicts, regardless of whether or not they have been instructed in the Laws of Armed Conflict.

> ...[T]he Geneva Conventions and Additional Protocol I each provide that instruction in the relevant Laws of Armed Conflict must be included in military training and, in effect, that every commander holds full responsibility for the proper implementation of Laws of Armed Conflict training within his or her sphere of responsibility.
>
> Similarly, Article 87 of Additional Protocol I provides, in effect, that commanders have a personal responsibility to ensure that all members of the armed forces under their command are aware of their obligations under the Geneva Conventions and Protocol I, commensurate with their level of responsibility, and that all necessary measures are taken to prevent violations of these laws.[26]

As stated, Col Labbé was largely ignorant of the level of his troops' training and erroneously believed that the readiness declaration, casually communicated to him by LCol Mathieu, ensured the appropriate training had occurred. Col Labbé performed no independent inquiry as to whether any deficiencies in training required correction before deployment.

Col Labbé failed to take any direct or personal measures to ensure that the troops were trained in the Law of Armed Conflict and that they fully understood the four 1949 Geneva Conventions. His question to LCol Mathieu, "Are the boys good to go?", he would have us believe, implied a request for an answer to a very detailed question concerning whether the troops had been adequately trained in, among other things, the Law of War and the Geneva Conventions.[27] Col Labbé also stated his underlying assumption that, with the exposure that each soldier receives to the Law of War and the Geneva Conventions, and with the drills, recitations, exercises and rehearsals required of each, the Law of War becomes "like breathing".[28] He stated:

> Very briefly. We try and focus on those things that — what we try and do is give them a mind set using the law of war, the law of armed conflict and then we very quickly move down to the Geneva Conventions and their applicability and their responsibilities at their level for its implementation and then we very quickly move down beyond that to how do you deal with prisoners of war, how do you deal with refugees, stragglers, detainees, and we go through the procedures and go through the drills and they practise them, they recite them, they go out on exercises, they rehearse them, they do them. So these things are ingrained in them; it is like breathing. If you have a prisoner of war, you know exactly what to do. So that's done at their level as basic recruits. It is done again when they go back to their leadership courses and throughout our careers we then chop off on more of the Geneva Conventions and more on the law of war.[29]

Col Labbé's dubious assumptions, as well as his trust in LCol Mathieu and the continuing process of soldier education, were misplaced. In fact, the soldiers in Somalia did not know "exactly what to do." That the soldiers of the CAR were not trained on the Law of Armed Conflict should have been apparent to Col Labbé prior to deploying. However, as documented in detail above, Col Labbé did not bother to check, in any but the most cursory manner, whether training deficiencies may have existed. Specifically, Col Labbé did not inform himself as to whether any training in the Law of War or the Geneva Conventions had occurred. He did not himself conduct such training. His conduct therefore was far less than what is required and expected of a responsible commander.

It is apparent from what transpired in Somalia that the soldiers of the CAR had a deficient knowledge of a soldier's responsibilities toward a prisoner. Cpl Glass of 2 Commando testified before a court martial that his understanding of the duties of a Canadian soldier toward a Somali prisoner was that "We would try to keep him uncomfortable...Uncomfortable would mean we would try to keep him awake all night or we would pour water on him and keep him cold, I think." Thus, cold water was poured over prisoners, and they were not to be fed.[30] Sgt Cox of 2 Commando testified before a court martial that, unless the commanding officer ordered to the contrary, a prisoner was not to be given food or water.[31] MCpl Skipton of 2 Commando was unaware of the prohibition in the Geneva Conventions against tying the hands of prisoners of war.[32] Several members of 2 Commando testified about a failure to receive instructions, or train, on handling prisoners.[33] Indeed, soldiers did not even seem to know whether they had a general duty to prevent harm to a prisoner if they were not tasked specifically to guard the prisoner at the time.[34] In short, training prior to deployment on how to treat a prisoner after capture was virtually non-existent and therefore grossly inadequate.

It is possible that Col Labbé's approach was the mirror of that prevailing more generally throughout the Canadian Forces. If so, then one must conclude that the CF placed unwarranted faith in the generic program for training in the Law of Armed Conflict. Senior leaders in the chain of command simply assumed that the training would be adequate and failed to check its content. The issue of detainees was never seriously addressed at any level prior to Exercise Stalwart Providence in 1992. There was no policy, the operating rules were loose, and the treatment of detainees was not mentioned in the training direction of the Special Service Force to the CAR. What little training did take place focused on the notion of capturing detainees, without serious thought being devoted to their care, handling and disposition. The concerns of Col MacDonald of the Royal Canadian Dragoons, to the effect

that the CAR required more training in the handling of detainees, were essentially ignored — a testament to the general lack of concern regarding this issue.[35]

5. Failure in his duty as Commander as defined by analogy to *Queen's Regulations and Orders* art. 4.20 and in the military custom.

Given our findings above concerning the leadership failures of Col Labbé on training in the Rules of Engagement and the Law of Armed Conflict, and in view of the importance of control and supervision within the chain of command and the need for a commander to retain for himself important matters requiring the commander's personal attention and decision, we conclude that Col Labbé failed as a commander.

NOTES

1. Maj Michael J. Kelly, AM, *Peace Operations: Tackling the Military, Legal and Political Challenges* (Canberra: Australian Government Publishing Service, 1997), pp. 10-20.
2. Capt Karen A. Fair, "The Rules of Engagement in Somalia — A Judge Advocate's Diary", Working Draft, pp. 13-14.
3. Testimony of LCol Nordick, Policy hearings transcripts vol. 2P, pp. 374P-375P, 377P.
4. Testimony of LCol Nordick, Policy hearings transcripts vol. 2P, pp. 377P-383P.
5. Testimony of LCol Nordick, Policy hearings transcripts vol. 2P, pp. 377P-380P.
6. Testimony of Cmdre Cogdon, Transcripts vol. 9, p. 1753.
7. Testimony of Cmdre Cogdon, Transcripts vol. 10, p. 1828.
8. Testimony of Cmdre Cogdon, Transcripts vol. 9, p. 1755, approving his evidence at the Board of Inquiry (CARBG), vol. IV, p. 948.
9. Testimony of Cmdre Cogdon, Transcripts vol. 9, p. 1758.
10. Testimony of Col Labbé, Transcripts vol. 163, p. 33238.
11. Testimony of Col Labbé, Transcripts vol. 163, p. 33238.
12. Testimony of Col Labbé, Transcripts vol. 162, p. 32900.
13. Testimony of Col Labbé, Transcripts vol. 162, p. 32917.
14. Testimony of Col Labbé, Transcripts vol. 162, pp. 32921-32922.
15. Testimony of Col Labbé, Transcripts vol. 162, p. 32925.
16. Testimony of Col Labbé, Transcripts vol. 163, p. 33258.
17. Testimony of Col Labbé, Transcripts vol. 163, pp. 33259-33260.
18. Testimony of Col Labbé, Transcripts vol. 163, p. 33260.
19. Testimony of Col Labbé, Transcripts vol. 163, p. 33261.
20. Testimony of Cmdre Cogdon, Transcripts vol. 9, p. 1750.
21. Exhibit P-326 (emphasis in original).
22. Exhibit P-326.
23. Testimony of Col Labbé, Transcripts vol. 163, pp. 33267-33268.
24. Testimony of Col Labbé, Transcripts vol. 162, pp. 33259-33260.

25. Testimony of Col Labbé, Transcripts vol. 163, pp. 33237-33238; testimony of Cmdre Cogdon, Transcripts vol. 10, p. 1835.
26. Christopher Lamb, "The Land Commander and the Laws of Armed Conflict", in *The Force of Law: International Law and the Land Commander*, ed. Hugh Smith (Canberra: Australian Defence Studies Centre, Australian Defence Force Academy, 1994), pp. 1-15.
27. Testimony of Col Labbé, Transcripts vol. 162, p. 32917.
28. Testimony of Col Labbé, Transcripts vol. 167, p. 34389.
29. Testimony of Col Labbé, Transcripts vol. 167, pp. 34388-34389.
30. Testimony of Cpl Glass, General Court Martial (GCM) of Pte Brocklebank, vol. 2, pp. 321-322.
31. Testimony of Capt Sox, GCM of Pte Brocklebank, vol. 1, p. 147; see also testimony of Capt Reeves, GCM of Maj Seward, vol. 2, p. 309.
32. Testimony of MCpl Skipton, GCM of Pte Brown, vol. 5, p. 1044.
33. Testimony of Sgt Boland, GCM of Sgt Boland, vol. 2, pp. 281-2; testimony of Sgt Hooyer, GCM of Pte Brocklebank, vol. 4, p. 626; testimony of WO Kehoe, GCM of Maj Seward, vol. 2, p. 326.
34. Testimony of Sgt Hooyer, GCM of Pte Brocklebank, vol. 4, pp. 624-625; testimony of MCpl Giasson, GCM of Pte Brocklebank, vol. 2, pp. 283-285.
35. Testimony of Col Bremner, Transcripts vol. 8, p. 1535, that the question of detainees was not discussed by his department (at the time Col Bremner was Director of International Policy at NDHQ). Testimony of Cmdre Cogdon, Transcripts vol. 10, pp. 1828-1830, and Capt (N) McMillan, Transcripts vol. 11, pp. 2038-2039, that the ROE contained no mention of treatment of detainees and that the issue was left to be resolved later. Col Labbé wrote later that "Little time was available prior to deployment in theatre to review the ROE with all ranks" and that, although he claimed that most of this training was conducted in theatre, "clearly, at no point in time were the ROE exercised in a real scenario" (Document book 48AF, tab 11, DND 017705). The briefing that LCol Watkin gave on the Law of War on December 9 or 10, 1992 was given just to officers (evidence of LCol Watkin, GCM of LCol Mathieu, vol. 2, pp. 237-240). Capt (N) McMillan (J3 Plans at the time) testified that because of the rush to deployment, training on the ROE could not take place before deployment (Transcripts vol. 11, pp. 2007-2009). BGen Beno testified at the de Faye Board of Inquiry that training for the Somalia deployment, did not, to his knowledge, include specific training on the Law of War (Board of Inquiry (CARBG), vol. II, p. 269). Maj Kampman of the Royal Canadian Dragoons (RCD) testified that the problem of detainees at the time of pre-deployment training for Somalia "was not one of our highest concerns" (Transcripts vol. 28, pp. 5269-5271). Testimony of Capt Koch, Transcripts vol. 23, p. 4196, that the seven-page document received from NDHQ on the ROE was "useless" from a soldier's point of view. Testimony of Col MacDonald, Transcripts vol. 26, pp. 5002-5006, that within the RCD there was no training in the field on the ROE prior to deployment.

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Lieutenant-Colonel (Retired) Carol Mathieu

We advised LCol (ret) Carol Mathieu that we would consider allegations that he exercised poor and inappropriate leadership in the pre-deployment phase of the Somalia mission by failing:

1. **To exclude from the mission officers and non-commissioned officers who he knew, or ought to have known, were poor leaders;**

2. **To exclude from the mission non-commissioned members who he knew, or ought to have known, were causing discipline problems;**

3. **To adequately assess and substantiate the operational readiness of the Canadian Airborne Regiment and the Canadian Airborne Regiment Battle Group;**

4. **To ensure that the Canadian Airborne Regiment Battle Group was deployed with Rules of Engagement on which its members had been adequately trained and tested;**

5. **To ensure that all members of the Canadian Airborne Regiment and Canadian Airborne Regiment Battle Group were adequately trained and tested in the Law of War or the Law of Armed Conflict including the four 1949 Geneva Conventions on the protection of victims of armed conflict; and**

6. **In his duty as Commander as defined by analogy to *Queen's Regulations and Orders* art. 4.20 and in military custom.**

We now address these allegations in order.

1. **Failure to exclude from the mission officers and non-commissioned officers who LCol Mathieu knew, or ought to have known, were poor leaders.**

As the Commanding Officer (CO) of the Canadian Airborne Regiment (CAR), LCol Mathieu was responsible for ensuring that the officers under his command were competent, and to exclude from the mission any who were not. We find that LCol Mathieu failed in his responsibility to assess sufficiently the adequacy of two such officers, specifically Maj Seward and Capt Rainville.

LCol Mathieu was first alerted to the possible deficiencies regarding these officers on the day he took command as CO of the CAR. At a briefing on that day, BGen Beno expressed serious reservations about Maj Seward and Capt Rainville, and recommended that LCol Mathieu leave them behind when the troops were deployed.[1]

LCol (ret) Mathieu stated that because BGen Beno did not give "any...specific reason why" he felt the two should not be deployed, he "began to do a bit of investigative work"[2] to satisfy himself about the General's concerns. He spoke to the former CO about the officers, then subsequently reviewed the officers' personnel files.[3] No more was done by him beyond these measures. Then, as a result of these 'investigations', LCol Mathieu concluded that the officers were satisfactory and that they should be deployed to Somalia.[4] Indeed, he kept Capt Rainville as commander of the Recce Platoon, and took no further measures to confirm the competence of these two key officers after his initial assessment.

Regarding Maj Seward, LCol (ret) Mathieu added the qualification that he was hesitant to replace Maj Seward because "I figured that changing the CO was enough turmoil at that time."[5] This passive attitude was displayed to the Regimental Sergeant-Major (RSM), CWO Jardine, who also advised LCol Mathieu to relieve Maj Seward of command.[6] CWO (ret) Jardine testified that LCol Mathieu responded to his advice by suggesting "there was nothing he could do about it at that time, it should have been done before he came into the Regiment."[7] LCol Mathieu, in other words, implied that such matters as correcting deficiencies in sub-unit leadership were not his responsibility, but were those of the former CO, LCol Morneault. LCol Mathieu also told the RSM that concerning the matter of relieving Maj Seward, "Well, that's not within my realm, sort of, I'm just the new kid on the block here."[8]

Regarding Capt Rainville, LCol (ret) Mathieu testified that he in fact knew of both the incident at La Citadelle and the verbal reprimand administered by LCol Morneault.[9] He ought to have known of the Gagetown incident, as it was referred to in the document evidencing LCol Morneault's verbal

reprimand. He had access to BGen Dallaire's letter stating that Capt Rainville showed a "flagrant lack of judgment".[10] Finally, he had received a letter from BGen Beno concerning the *Journal de Montréal* pictures, the final paragraph of which stated that BGen Beno had "grave doubts about this particular officer".[11] LCol Mathieu responded to this letter with a call to BGen Beno, stating that BGen Beno "was satisfied with my reply".[12] As regards the action he took against Capt Rainville, LCol (ret) Mathieu said he "discussed the matter in question"[13] with the Captain, and was thereby satisfied that any concerns had been dealt with.

The actions LCol Mathieu took in dealing with the leadership problems of Maj Seward and Capt Rainville were seriously inadequate. He was told by his superior officer that the two should be left behind, but treated this advice as dispensable under the circumstances. He knew or should have known of the history of problems relating to these two officers. He had access to documented evidence that should have raised a serious question in his mind as to whether these officers should have been deployed. Instead of pursuing these matters, he resigned himself to the time constraints he faced: he said he simply did not have the time to form his own opinion.[14] It seems to us that a responsible CO in this situation would take seriously the solemn concerns expressed to him by other officers, including his superior, and would have taken the time to confirm whether these doubts had merit. Even with a cursory examination, LCol Mathieu could not have but concluded that these doubts had a strong basis in reality given the nature of the concerns expressed to him. He had at his disposal reports from the training exercise, Stalwart Providence, the opinions of the officers who had observed and interacted with Maj Seward and Capt Rainville, and had his Commander's strong recommendation. He also had access to personnel files which, at least in the case of Capt Rainville, revealed obvious and serious discipline, judgement, and leadership flaws. Considering this, we fail to see why LCol Mathieu did not give the matter of removing these officers more serious consideration. When deployment is imminent, it is crucial that a unit be staffed with competent, reliable, and balanced officers. This should be an overriding concern to a CO, and LCol Mathieu's actions regarding this issue show a serious failure on his part to ensure that these problems were resolved.

2. Failure to exclude from the mission non-commissioned members who he knew, or ought to have known, were causing discipline problems.

LCol Mathieu also inherited a number of disciplinary problems — in particular, outstanding matters pertaining to the incidents of early October — when he assumed command and, through his responsibilities as CO, was charged with the duty to ensure these problems were resolved. He clearly knew of these

problems. He was briefed by BGen Beno on the unresolved disciplinary incidents upon assuming command, but his actions suggest he did little to settle the issues raised before him. Regarding the car-burning incident, LCol Mathieu had received a preliminary MP report but stated "we didn't do anything with it",[15] the rationale being that a military lawyer once told him "you don't touch [MP reports]. You look and you lay no charges with [them] because it's no use."[16]

LCol (ret) Mathieu's testimony contrasts sharply with that of LCol Morneault on the suggested approach to resolving this incident. With respect to the list provided in the MP report, LCol Morneault stated "I would have tried at my level each and every one of these gentlemen", that he would have left behind any he had found guilty, with the possible exception of Cpl Powers, and that he had a "strong feeling" that he would have found all on the list guilty.[17] LCol Morneault advised LCol Mathieu to use the MP reports in the manner suggested, and that he be resolute in pursuing these issues.[18] LCol Mathieu did not follow this advice.

Eschewing the MP report, LCol Mathieu instead "chatted...a little" with Maj Seward about the incident but stated that nothing conclusive came as a result.[19] In the end, the action taken regarding this incident was that "two sergeants who were a bit weak were transferred."[20] Whether or not this was even initiated by LCol Mathieu was not made clear in testimony.

Regarding the other outstanding incidents, LCol Mathieu imposed disciplinary action that amounted to no more than shuffling a few members between the commandos.[21] LCol (ret) Mathieu stated that he also had presumed the downsizing of the CAR occurring at the time would have weeded out the undesirable elements.[22]

Shuffling members between commandos and relying on the presumption that administrative downsizing would accomplish disciplinary goals is a thin basis on which to build disciplinary order. MGen (ret) MacKenzie himself testified that something more than a mere shuffle should have taken place.[23] In our eyes, such 'action' amounts to inaction. What is perhaps worse is that behind LCol Mathieu's inaction lay a theory that problematic individuals make the best soldiers in theatre. He stated: "the people who make trouble generally at the disciplinary level, in the garrison, are generally your best elements when you go."[24] Thus, perhaps it is not surprising that LCol Mathieu deployed with MCpl Matchee, Pte Brown, Cpl McKay, and Pte Brocklebank, all of whom were implicated in serious breaches of discipline in theatre, and all of whom appeared on the MP lists that LCol Mathieu had received before deployment. Neither is it surprising that among these four, MCpl Matchee, who had a record of previous incidents, was promoted by LCol Mathieu before the troops were deployed.[25]

LCol Mathieu's attitude to the disciplinary problems he faced, and the methods he employed to resolve them, are unacceptable. A CO bears the

primary responsibility for ensuring the proper discipline of a unit. From his testimony, LCol Mathieu cared little about the details of the problems he faced. Neither did he concern himself with pursuing the problems to the proper outcome. ("I presume they left the least desirable elements."[26]) The methods he employed ("a small shuffle within"[27]) were inadequate. The promotion, furthermore, of MCpl Matchee, was a considerable error in light of events both before and after he was promoted. Finally, to the extent that LCol (ret) Mathieu disclaimed knowledge of pertinent events, or of persons thought to have been involved in them, there is evidence that he was neglectful in fulfilling his duties as CO. Obtaining such knowledge is crucial to a CO's disciplinary function and must be made a priority in all circumstances.

3. Failure to adequately assess and substantiate the operational readiness of the Canadian Airborne Regiment and the Canadian Airborne Regiment Battle Group.

It was also LCol Mathieu's responsibility to adequately assess and substantiate the declaration of operational readiness of the CAR and the Canadian Airborne Regiment Battle Group (CARBG). This is a crucial assessment function that can be carried out by active inquiry only; nothing less will suffice. We found nothing in the evidence before us suggesting that any such inquiry was carried out. The CAR was declared operationally ready for Operation Cordon on November 13, 1992, little more than two weeks after LCol Mathieu assumed command. In that period the only training that occurred was described by Maj Seward as "of a filler nature",[28] and of neither a kind nor duration upon which one could assess operational readiness. Indeed, the troops were on embarkation leave for two weeks. Maj Seward also testified that, in any event, LCol Mathieu had "very little"[29] involvement with training.

The training conducted for Operation Deliverance, and LCol Mathieu's involvement in it, were similarly scant. The schedule covered only 10 days in duration,[30] and the training was intended to provide at least some exposure to the operational requirements of the new mission. However, considering the short duration, this exposure was very restricted, and the general perception of officers and soldiers was that events were far too hurried. LCol (ret) Mathieu himself shared this opinion, but added that he did not exert his influence to achieve a change in pace because "I had a schedule to stick to, I was told 'that's what you're going to do.' In the army, I follow orders; so I went."[31] He furthermore stated that if he had advised that his Regiment was not ready, "Well, they would have said 'bye-bye' Mathieu, and brought in someone else."[32] When questioned further on the ramifications of a rushed preparation, LCol (ret) Mathieu testified that the CAR was in any event designed "to be deployed at all times",[33] and that rushed circumstances did not pose a serious

obstacle. He therefore agreed that when an order issues from the higher echelons, a 'can do' attitude is the appropriate response.[34]

From the evidence, LCol Mathieu did nothing to assess or substantiate the operational readiness of the CAR or the CARBG before deployment. He was minimally involved in the scant pre-deployment training conducted during his command, and by his own admission was able to observe very little of the operational capabilities of his troops. Furthermore, he did not question the time constraints placed upon him, and was content to deploy simply with the preparation that could be arranged in the time available. He did not run his own regimental exercise, and did not command his troops in a simulated environment. LCol Mathieu bore the primary responsibility for ensuring that the CAR was operationally ready after he took over command from LCol Morneault. It was his responsibility to express any concerns about the operational readiness of the unit and to alert the chain of command accordingly. Without an adequate assessment of the CAR's training preparedness, LCol Mathieu failed in one of his important tasks as CO.

4. Failure to ensure that the Canadian Airborne Regiment Battle Group was deployed with Rules of Engagement in which its members had been adequately trained and tested.

As the primary officer responsible for training, LCol Mathieu ought to have ensured that the members of the CARBG were trained and tested on, and had an adequate understanding of, the Rules of Engagement (ROE) for Operation Deliverance prior to deployment. To facilitate this training, he ought to have pressed National Defence Headquarters (NDHQ) for an early production of the ROE. Having taken command on October 26th, LCol Mathieu had two months to actively pursue these matters. According to the evidence, however, LCol Mathieu did not actively pursue this matter.

In his testimony, he stated that the ROE were received only very late in the deployment process. Members of the advance party received their ROE for Operation Deliverance on December 12th, just as they were about to deploy, and the main body received them "as they were getting their final administrative arrangements before their departure".[35] Regarding the advance party, LCol (ret) Mathieu explained that "if there hadn't been a blizzard on the night of the 11th, we would have left without ROE."[36] LCol (ret) Mathieu also explained that the late timing was of little consequence because ROE training is an inherent part of basic soldier training. The soldiers being deployed therefore had a presumptive knowledge of the ROE.[37]

To our amazement and consternation, LCol (ret) Mathieu also stated clearly that the actual rules of engagement *per se* are a formality more than anything else. When asked if he felt the soldiers were prepared adequately in the ROE,

LCol (ret) Mathieu replied that training occurred in practical situations, on the ground.[38] "Training goes on continuously."[39] He added, furthermore, that the soldiers "had 36 hours to read them, to read their stuff",[40] and that they were reminded frequently of the ROE in the orders groups they attended. This, in his mind, comprised adequate ROE training. When asked whether in this "training" hypothetical situations or scenarios were posed to the soldiers, LCol (ret) Mathieu stated, "you'd have to ask the commando OCs what they did, because I spoke about it with them."[41] Regarding his own personal command input into this training process, LCol (ret) Mathieu stated that he asked his OCs "if they were confident that their men understood the Rules of Engagement".[42] They told him they were, and although LCol Mathieu did not know how they gained this confidence, he was in any event satisfied with their responses.

We do not accept LCol (ret) Mathieu's explanations regarding proper methods of ROE training. Neither do we find acceptable the methods he actually employed, or his acceptance of the timing for the production of the ROE. As Capt Walsh stated, ROE should be produced "as early as possible in the mounting phase... [T]here is no time to pull out a card at the last minute."[43] It is furthermore unacceptable that ROE training was left to a 36-hour period during which the soldiers were left "to read their stuff". ROE training is an important deployment matter, and a CO can never trust that it has occurred "on the ground". Furthermore, that LCol (ret) Mathieu would state that "you would have to ask the commando OCs what they did" only suggests that he really did not know the degree to which the soldiers felt comfortable in their knowledge of the ROE, whether they actually knew them, and whether they were in fact adequately trained to respond to scenarios they would face while in Somalia. These are all important aspects of ROE training, and are responsibilities that fell squarely on the shoulders of LCol Mathieu as CO of the CAR. LCol Mathieu, however, did not fulfil these responsibilities. Instead, his contribution was the publication of an aide-mémoire card that was subsequently handed out to his soldiers.

5. Failure to ensure that all members of the Canadian Airborne Regiment and Canadian Airborne Regiment Battle Group were adequately trained and tested in the Law of War or the Law of Armed Conflict including the four 1949 Geneva Conventions on the protection of victims of armed conflict.

As the officer primarily responsible for training, LCol Mathieu was responsible for determining whether the CAR had been sufficiently trained and was knowledgeable in the the Law of Armed Conflict, and he ought to have remedied any deficiencies noted. It seems to us that LCol Mathieu was personally well trained to identify such deficiencies, as he should have been. In a paper

written by him in 1984, entitled "New Horizons: Law of War Training for the Canadian Forces: A Luxury or a Necessity",[44] Maj Mathieu stated that the chain of command must be trained "to a high level of knowledge through formal lectures and seminars conducted as part of unit officers' and senior non-commissioned officers' training".[45] The chain of command "must also be taught not to tolerate any deviation from the provision of the conventions and to enforce the meaning of the law".[46] If it is not, he concluded, "the CF could be faced with potential situations similar to the 'My Lai Incident' in future conflicts if the state of law of war training remains at its present low standard".[47]

Regarding the actual training conducted, LCol (ret) Mathieu said he arranged for the officers and senior non-commissioned officers to attend a lecture given by LCol Watkin on December 10th.[48] Further, he requested that officers brief their respective chains of command and soldiers. LCol Mathieu did not, however, conduct courses and did not put his soldiers through practical exercises on the treatment of detainees.[49] Rather, he assumed that a soldier would know what to do. When LCol (ret) Mathieu was then asked to note that several soldiers testified to not knowing what LCol Mathieu presumed they should know, he replied:

> You may have fallen victim to the soldier's first defence. When in doubt, play the fool. Because when you go into the army, you learn to treat prisoners with dignity. Because prisoners are pretty simple. You capture them, you secure them. If they are injured, you take care of them.... It's as simple as that.[50]

This conclusion does not accord with the more appropriate standards espoused by Maj Mathieu in his 1984 paper, and it does a disservice to the soldiers for whom LCol Mathieu was responsible. Furthermore, it relinquishes responsibility for ensuring an adequate state of knowledge in favour of relying on the exigencies of varied training programs over long periods of time, none of which, as the evidence suggested, emphasized either the Geneva Conventions or the Law of Armed Conflict. Even regarding the December 10th lecture, LCol Mathieu was remiss in his responsibilities. He stated that LCol Watkin merely passed out reading materials to the officers dealing with the basic principles. He also stated that "those officers pass it on, they disseminate the information."[51] LCol (ret) Mathieu was obviously speaking from theory, for he did not know that Maj Seward of 2 Commando did not "disseminate the information".[52] He also stated that he was "pretty sure" that the seminar information "must have filtered down" to the appropriate levels. However, no evidence of any such 'filtering' was presented during the hearings, and there is no evidence that LCol Mathieu took appropriate and reasonable steps to ensure or to verify that the information had been passed down and understood. For his part, Maj Seward stated that he received no instruction to pass the contents of the lecture on to his soldiers.[53]

The training conducted by LCol Mathieu on the Geneva Conventions and the Law of Armed Conflict was inadequate. So, too, was his knowledge of what training or information was actually given to the soldiers. LCol Mathieu merely relied on assumptions which proved to be unfounded. The troops were not comfortable with their knowledge of the Geneva Conventions as he assumed they were. They obviously did not all know how detainees should be treated and, in fact, did not evidence any standard treatment procedure in theatre, where detainee problems were numerous.[54] Moreover, neither direction nor guidance was given to the OCs by LCol Mathieu, who again relied on assumptions that a certain course of training would be conducted. This behaviour does not suit the standard required of a CO, who must take an active role in shaping the training of a unit, and must devise standards against which to assess the adequacy of such training. In not conscientiously and responsibly ensuring that the Law of Armed Conflict was understood and that there was adequate training on the subject matter, LCol Mathieu failed to assume his responsibilities as a commander toward his men and the military.

6. Failure in his duty as Commander as defined by analogy to *Queen's Regulations and Orders* art. 4.20 and in military custom.

Given our findings above concerning the leadership failures of LCol Mathieu, and in view of the importance of control and supervision within the chain of command, we conclude that LCol Mathieu failed as a commander.

Notes

1. Testimony of BGen Beno, Transcripts vol. 41, pp. 7946–7947, 7951–7952.
2. Testimony of LCol (ret) Mathieu, Transcripts vol. 168, pp. 34619–34620 (original: "Il m'a pas donné de raison plus spécifique pourquoi... j'ai commencé à faire un peu de travail d'investigation").
3. Testimony of LCol (ret) Mathieu, Transcripts vol. 168, p. 34634.
4. Testimony of LCol (ret) Mathieu, Transcripts vol. 168, p. 34667.
5. Testimony of LCol (ret) Mathieu at Board of Inquiry, phase 1, vol. V, p. 1187.
6. Testimony of CWO (ret) Jardine, Transcripts vol. 26, p. 4863.
7. Testimony of CWO (ret) Jardine, Transcripts vol. 25, p. 4628.
8. Testimony of CWO (ret) Jardine, Transcripts vol. 25, p. 4629.
9. Testimony of LCol (ret) Mathieu, Transcripts vol. 168, pp. 34647–34652 and following.
10. Document book 4, tab 6, p. 1, paragraph 1, BGen Dallaire's letter to BGen Beno, dated 23 September 1992.
11. Document book 4, tab 6, p. 2, paragraph 4, BGen Beno's letter to LCol Mathieu, dated 15 December 1992.

12. Testimony of (ret) LCol Mathieu, Transcripts vol. 168, p. 34663 (original: "...était satisfait de ma réponse.").
13. Testimony of LCol (ret) Mathieu, Transcripts vol. 168, pp. 34664–34665 (original: "On a discuté de l'affaire en question.").
14. Testimony of LCol (ret) Mathieu, Transcripts vol. 173, p. 35615.
15. Testimony of LCol (ret) Mathieu, Transcripts vol. 168, p. 34603 (original: "...mais on fait rien avec ça").
16. Testimony of LCol (ret) Mathieu, Transcripts vol. 168, p. 34603 (original: "un rapport militaire, tu touches pas à ça. Tu regardes puis tu fais pas de charge avec ça parce que ça donne rien.").
17. Testimony of LCol Morneault, Transcripts vol. 37, p. 7178.
18. Testimony of LCol Morneault, Transcripts vol. 36, pp. 7006–7007.
19. Testimony of LCol (ret) Mathieu, Transcripts vol. 168, p. 34607 (original: "on a jasé de ça un peu").
20. Testimony of LCol (ret) Mathieu, Transcripts vol. 168, p. 34609 (original: "on a muté deux (2) sergents qui étaient faibles un peu.").
21. Testimony of LCol (ret) Mathieu, Transcripts vol. 168, p. 34624.
22. Testimony of LCol (ret) Mathieu, Transcripts vol. 168, p. 34610.
23. Testimony of MGen (ret) MacKenzie, Transcripts vol. 43, p. 8513.
24. Testimony of LCol (ret) Mathieu, Transcripts vol. 168, pp. 34613–34614 (original: "... les gens qui font du trouble généralement au niveau disciplinaire, en garnison, sont généralement tes meilleurs éléments quand tu vas...").
25. LCol Mathieu described his input into the process as a type of rubber stamping: Transcripts vol. 169, p. 34791.
26. Testimony of LCol (ret) Mathieu, Transcripts vol. 168, p. 34610 (original: "... je présume qu'ils laissaient les éléments moins désirables.").
27. Testimony of LCol (ret) Mathieu, Transcripts vol. 168, p. 34624 (original: "... de les déménager à l'intérieur de l'unité.").
28. Testimony of Maj Seward, Transcripts vol. 30, p. 5818.
29. Testimony of Maj Seward, Transcripts vol. 31, p. 6025.
30. See Document book 13A, p. 29 (CAR Training Plan).
31. Testimony of LCol (ret) Mathieu, Transcripts vol. 169, p. 34771 (original: "... j'avais un horaire à suivre, on m'avait dit c'est ça que tu vas faire. Dans l'armée, moi, je suis des ordres; par là, bien j'y va.").
32. Testimony of LCol (ret) Mathieu, Transcripts vol. 169, p. 34771 (original: "Bien ils auraient dit exit Mathieu, rentre un autre.").
33. Testimony of LCol (ret) Mathieu, Transcripts vol. 169, p. 34774 (original: "... à se déployer en tout temps.").
34. Testimony of LCol (ret) Mathieu, Transcripts vol. 169, p. 34785.
35. Testimony of Maj MacKay, Transcripts vol. 33, p. 6320. Capt Walsh stated that he received his "as I boarded the bus to leave for the airport": Transcripts vol. 13, p. 2357.
36. Testimony of LCol (ret) Mathieu, Transcripts vol. 169, p. 34715 (original: "... s'il n'y avait pas eu une tempête de neige le 11 au soir, on serait parti sans règles d'engagement.").
37. Testimony of LCol (ret) Mathieu, Transcripts vol. 169, pp. 34715–34716.
38. Testimony of LCol (ret) Mathieu, Transcripts vol. 169, p. 34720 (original: "... ils le pratiquent de facto.").

39. Testimony of LCol (ret) Mathieu, Transcripts vol. 169, p. 34721 (original: "L'entraînement continue tout le temps.").
40. Testimony of LCol (ret) Mathieu, Transcripts vol. 169, p. 34719 (original: "... ils avaient trente-six (36) heures... pour lire leurs affaires.").
41. Testimony of LCol (ret) Mathieu, Transcripts vol. 169, p. 34722. (original: "... il faudrait le demander à des commandants de commando, qu'est-ce qu'eux ont fait, parce que... on en parlait.")
42. Testimony of LCol (ret) Mathieu, Transcripts vol. 169, p. 34723(original: "... s'ils étaient confiants que leurs gens comprenaient les règles d'engagement".).
43. Testimony of Capt Walsh, Transcripts vol. 13, p. 2359.
44. Document book 87, tab G2.
45. Document book 87, tab G2.
46. Document book 87, tab G2.
47. Document book 87, tab G2.
48. Testimony of LCol (ret) Mathieu, Transcripts vol. 169, p. 34714, vol. 173, p. 35709.
49. Testimony of LCol (ret) Mathieu, Transcripts vol. 169, p. 34731.
50. Testimony of LCol (ret) Mathieu, Transcripts vol. 169, p. 34733 (original: "Vous avez peut-être été victime de la première défense du soldat. Quand t'es en doute, tu fais l'imbécile. Parce que... en rentrant dans l'armée, ils apprennent à traiter les prisonniers avec dignité. Parce que, les prisonniers, c'est assez simple. Tu les captures, tu assures la sécurité. S'ils sont blessés, tu les soignes ... C'est pas plus compliqué ça.").
51. Testimony of LCol (ret) Mathieu, Transcripts vol. 169, p. 34734 (original: "... eux autres, après ça, ils passent, ils font la dissémination de l'information.").
52. Testimony of LCol (ret) Mathieu, Transcripts vol. 169, pp. 34734–34735; see also Testimony of Maj Seward, Transcripts vol. 31, p. 6023 (original: "je suis pas mal certain ... a dû filtrer jusqu'à un certain niveau ...").
53. Testimony of Maj Seward, Transcripts vol. 32, p. 6219.
54. In Pte Brocklebank's court-martial proceedings, Cpl Glass stated that soldiers "could try to keep [detainees] uncomfortable" and that "we would keep [a detainee] awake all night or we would pour water on him." See testimony of Col Labbé, Transcripts vol. 164, pp. 33346–33348, for references.

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Lieutenant-Colonel Paul Morneault

We advised LCol Paul Morneault that we would consider allegations that he exercised poor and inappropriate leadership in the pre-deployment phase of the Somalia mission by failing:

1. **To adequately organize, direct, and supervise the training preparations of the Canadian Airborne Regiment during the period from the receipt of the Warning Order for Operation Cordon until he was relieved of command; and**

2. **In his duty as Commander as defined by analogy to *Queen's Regulations and Orders* art. 4.20 and in military custom.**

We now address these allegations in order.

1. **Failure to adequately organize, direct, and supervise the training preparations of the Canadian Airborne Regiment during the period from the receipt of the Warning Order for Operation Cordon until he was relieved of command.**

As the Commanding Officer (CO) of the Canadian Airborne Regiment (CAR) until October 23, 1992, LCol Morneault bore primary responsibility to ensure that training was conducted appropriately during that time with regard to factors relevant to a peacekeeping mission. Training is fundamental to deployment preparations, and is the principal activity through which leadership is exercised, attitudes conveyed, and operational readiness ascertained. Those who bear responsibility for training are therefore expected to pay particular attention to its proper supervision, ensuring that the conduct of training is adequate and appropriate, and that its progression follows a carefully articulated plan.

Accordingly, personal supervision is of utmost importance and must be made one of the highest priorities in the matter of training, if not the overall priority, for it is on the CO that the greatest responsibility for training falls. We find, however, that LCol Morneault failed to meet this important responsibility in two respects. First, he failed to inculcate in his commandos, through the design of an appropriate training plan and through adequate direct supervision, an attitude suitable to a peacekeeping mission.

As a first point, and by his own admission, LCol Morneault dedicated only 15 to 20 per cent of his time to supervising the training of his troops.[1] This is, simply stated, an insufficient amount of time spent in direct supervision. Despite his other numerous responsibilities, LCol Morneault was the only person who could realistically assess the extent and adequacy of his personal involvement. At a minimum, then, he should have requested, at the appropriate time and with the proper urgency, changes to the sequence of events and circumstances he faced to allow a full, hands-on involvement in the in-field training experience. He did not do this. Though he sent a letter to BGen Beno expressing some concern on this matter,[2] the letter was sent far too late, when realistic remedial opportunities were limited and when the chance to impress upon his troops his own personal standards had been largely spent.

Furthermore, LCol Morneault knew his troops were training for a Chapter VI United Nations peacekeeping mission, and he knew or ought to have known that such missions require a broader knowledge base than normal general purpose combat training permits. Despite this, he allowed 2 Commando (2 Cdo) to train in a manner far too focused on general purpose combat skills, and with a level of aggression not in keeping with a peacekeeping mission. LCol Morneault himself admitted that 2 Cdo spent too much time on general purpose combat training, and did not complete the tasks it was assigned.[3] LCol Morneault also knew of 2 Cdo's aggressiveness.[4] He was furthermore warned several times by a number of officers that 2 Cdo was too aggressive. Maj Pommet warned him,[5] as did his training officer Capt Kyle, who told LCol Morneault very early in the training period that "there was a potential problem with the type of training 2 Cdo was conducting",[6] and that the Commando seemed overly aggressive. The Regimental Sergeant-Major, CWO Jardine, also expressed concern to LCol Morneault about Maj Seward and 2 Cdo's training. He viewed Maj Seward's use of aggressive attack simulations as inappropriate and, specifically, felt 2 Cdo's problems stemmed from "leadership at the OC level".[7] Finally, LCol MacDonald told LCol Morneault after Stalwart Providence that Maj Seward was not fit to command and that 2 Cdo was much too aggressive.[8]

We find that LCol Morneault knew early in the training period that 2 Cdo had problems with leadership and aggressiveness, and that these problems were closely linked. He was the primary officer answerable for training, and bore the responsibility of ensuring that pertinent and adequate training was conducted by the appropriate officers commanding (OCs). If any of the OCs were found lacking, it was incumbent upon LCol Morneault to make the required changes. But LCol Morneault did not make these changes. Moreover, the evidence suggests that little was done by him to correct the deficiencies of which he was aware. In response to Capt Kyle's criticisms, he stated that, other than verbal cautions to Maj Seward to tone things down,[9] he "didn't want to interfere with the commandos — his OCs' training activities", and that "he was not interested in getting involved to sort that issue out at that point".[10] Capt Kyle was naturally surprised by this response given that "a potential problem had been identified to a commanding officer regarding one of his sub-units" and that LCol Morneault "did not appear to take it serious".[11]

LCol Morneault responded similarly to LCol MacDonald's criticisms of Maj Seward and 2 Cdo. He told him that he did not want his hands tied with regard to Maj Seward and requested that LCol MacDonald remove critical comments about Maj Seward from a letter LCol MacDonald was to send to BGen Beno.[12] LCol MacDonald deleted the reference as LCol Morneault requested, and no subsequent action was taken to correct the serious deficiency in 2 Cdo's leadership as noted by LCol MacDonald. Though LCol Morneault was relieved of command almost immediately after this incident, and cannot be held responsible for others' inactions, his direction to LCol MacDonald prevented immediate action from being taken against Maj Seward, and for this he is accountable.

LCol Morneault also failed to adequately instruct his OCs on the aim, scope, and objectives of the training they were to conduct, and failed to include a proper statement of these in the training plan he designed. From his own personal experience, and from the training he received at staff college, LCol Morneault should have known such a statement to be beneficial. He also should have known that a written direction clearly establishing priorities within an overall training concept is an important feature of training direction. He did not do this, and it is not surprising, therefore, that cohesiveness within the CAR's sub-units suffered as a result. On this point, one of the more serious criticisms arising from Stalwart Providence was that the three commandos operated independently without the cohesion required of a regimental unit.[13] Cohesion develops in accordance with clear training direction issued from the CO, and is ensured only when the CO personally supervises the execution of that direction. LCol Morneault did neither.

We therefore find that LCol Morneault failed to assert his leadership and, thus, to instil, through his presence and adequate supervision of training, a proper attitude and professional competence in his troops, particularly as regards over-aggressiveness, and that he failed to make every effort to draw his unit together as a cohesive whole.

2. Failure in his duty as Commander as defined by analogy to *Queen's Regulations and Orders* art. 4.20 and in military custom.

Given our findings above concerning the leadership failures of LCol Morneault, and in view of the importance of control and supervision of training for overseas missions, we conclude that LCol Morneault failed as a commander.

NOTES

1. Testimony of LCol Morneault, Transcripts vol. 36, p. 7068.
2. See Document book MOR3, tab 3.
3. Testimony of LCol Morneault, Transcripts vol. 36, p. 7107.
4. Testimony of LCol Morneault, Transcripts vol. 36, p. 7106; Testimony of CWO (ret) Jardine, Transcripts vol. 26, p. 4823.
5. Testimony of LCol Morneault, Transcripts vol. 36, p. 7106.
6. Testimony of Maj Kyle, Transcripts vol. 21, p. 3808.
7. Testimony of CWO (ret) Jardine, Transcripts vol. 25, p. 4775.
8. Testimony of Col MacDonald, Transcripts vol. 26, pp. 4985–4986.
9. Testimony of LCol Morneault, Transcripts vol. 36, p. 7106; vol. 38, p. 7361; Testimony of Maj Seward, Transcripts vol. 30, p. 5757.
10. Testimony of Maj Kyle, Transcripts vol. 21, pp. 3808–3809.
11. Testimony of Maj Kyle, Transcripts vol. 21, p. 3809.
12. Testimony of LCol Morneault, Transcripts vol. 36, p. 6995.
13. Document book 15, tab 27.

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Major Anthony Seward

We advised Maj Anthony Seward that we would consider allegations that he exercised poor and inappropriate leadership in the pre-deployment phase of the Somalia mission by failing:

1. **To use his authority as an Officer Commanding to adequately address the discipline problems within 2 Commando before deployment, and to notify his superiors accordingly;**

2. **To recommend that his Commanding Officer exclude from the mission individuals with discipline problems;**

3. **To train his troops adequately and curb the overly aggressive attitude of his troops prior to deployment;**

4. **To ensure that information was properly passed down to his troops;**

5. **To foster effective relationships between himself and his officers, himself and his senior non-commissioned officers, and among the senior non-commissioned officers themselves; and**

6. **To ensure that all members of 2 Commando were adequately trained and tested in the Law of War or the Law of Armed Conflict including the four 1949 Geneva Conventions on the protection of victims of armed conflict.**

We now address these allegations in order.

1. **Failure to use his authority as an Officer Commanding to adequately address the discipline problems within 2 Commando before deployment, and to notify his superiors accordingly.**

As Officer Commanding (OC), Maj Seward was responsible for assessing the state of discipline within 2 Commando (2 Cdo), and for rectifying any problems prior to deployment. A commander must be vigilant about disciplinary matters, and must actively pursue problems when they arise. This Maj Seward did not do. In fact, he stated that no such discipline problem existed. He explained that before he took command as OC, MWO Mills had for some time been addressing the discipline problems, specifically in 2 Cdo,[1] and that by the time he took command, "SgtM Mills had in fact redressed the [discipline] situation in good part."[2] As the incoming OC, he therefore did not need to exert himself in any extraordinary way.

Even after the events of early October, when discipline had become in Maj Seward's own words a "hot issue",[3] Maj Seward did not think he had a discipline problem on his hands, and consigned himself to a defensive stance toward those who thought otherwise. He viewed these incidents as little more than the "problems of young men with a lot of enthusiasm".[4] The resolution he sought amounted to little more than the alternate posting of a few soldiers.

The evidence does not support Maj Seward's opinion that MWO Mills had adequately resolved the discipline problem by the time Maj Seward assumed control.[5] Neither does it support Maj Seward's contention that he did not have a discipline problem either before or after the events of early October. Discipline was clearly a concern for those critically monitoring 2 Cdo during the length of Maj Seward's posting as OC.[6] Hence, when OC command was passed to Maj Seward, he was briefed by Maj Davies on a number of outstanding disciplinary concerns,[7] and a number of additional concerns emerged afterward. After the October incidents, Maj Seward knew that many officers, including the two directly senior to him, had become very concerned about 2 Cdo's state of discipline.[8] In mid-November 1992, Maj Seward received advice from Col Gray and MGen Pitts concerning the "discipline problems" in 2 Cdo.[9] Given such clear evidence to the contrary, Maj Seward's view that 2 Cdo lacked a discipline problem constitutes an error in judgement and represents the abrogation of a central element of his responsibility as an officer commanding: to ensure that the behaviour of his troops conformed to the disciplinary standard required of the Canadian Forces in overseas military operations.

Maj Seward also failed to notify his superiors of the leadership and discipline problems which he should have recognized within 2 Cdo. In fact, any such communication as did occur flowed only one way, downwards from levels higher than Maj Seward. BGen Beno several times, weakly and in general terms, instructed LCol Morneault to resolve the discipline problems in 2 Cdo, and LCol Morneault in turn instructed Maj Seward to take corrective measures.[10] Passage of information upward through the chain of command is important to military functioning generally, and is especially important in dealing with leadership and disciplinary problems. To the extent that Maj Seward failed to address the problem of discipline within 2 Cdo by not notifying his superiors, he failed both in exercising proper leadership and in fulfilling his responsibilities to the chain of command.

2. Failure to recommend that his Commanding Officer exclude from the mission individuals with discipline problems.

Maj Seward also failed to recommend to his CO that certain individuals with discipline problems be excluded from the mission. Maj Seward explained that at the time he assumed the position of OC, 2 Cdo was over-strength, and that the number needed to be reduced from the original 137 soldiers to a final count of 104.[11] During this time, 2 Cdo found itself the object of disciplinary scrutiny. It is our opinion that a responsible OC concerned with the disruptive influence of recalcitrant or uncontrollable members could have used the reduction process to weed out those either proven or suspected to be disciplinary problems. This was also the opinion of BGen Beno, who, in seeking to assign responsibility for these problems to his subordinates, stated that the "OC of 2 Commando would have had the opportunity to — more than ample opportunity — to remove any numbers of individuals who he did not consider fit to deploy to Somalia."[12]

However, despite the serious concerns voiced to him about the state of 2 Cdo discipline, and despite knowing in early October 1992 that the Commanding Officer, LCol Morneault, suggested 2 Cdo not be deployed to Somalia because of perceived disciplinary problems,[13] and knowing MWO Mills thought there to be at least six "bad actors" within 2 Cdo,[14] Maj Seward viewed the reduction process as an administrative detail of shuffling soldiers from over- to under-staffed commandos. Though Maj Seward knew that MWO Mills had identified seven soldiers who were potential disciplinary problems, he removed only one "for disciplinary reasons".[15] Asked specifically whether he used the reductions to "post out from 2 Commando people who may be considered to have been problem children", Maj Seward answered, "No."[16] MWO Mills confirmed Maj Seward's hesitancy to post out individuals

from 2 Cdo.[17] This again demonstrates Maj Seward's lack of leadership by failing to respond to the various disciplinary incidents with decisive remedial action.

3. Failure to adequately train his troops and curb the overly aggressive attitude of his troops prior to deployment.

Maj Seward failed to instil, through example, supervision, and training, a proper attitude and professional competence in his troops, particularly with regard to over-aggressiveness, respect for the rule of law, and obedience to the Rules of Engagement (ROE). Maj Seward knew of the criticisms of the aggressiveness of his troops,[18] and was himself personally criticized for the aggressive nature of his training methods.[19] Maj Seward also agreed that his approach to training was more aggressive than in the other commandos.[20] However, in his testimony he consistently denied that his unique form of training was inappropriate.[21] We find this unacceptable. Maj Seward knew his troops were aggressive and that this aggressiveness was a source of many disciplinary incidents. He ought to have taken control of the situation and ensured that the aggressive attitude was removed. He did not and, thus, failed in an important respect as Officer Commanding (OC) of 2 Cdo.

4. Failure to ensure that information was properly passed down to his troops.

As the OC of 2 Cdo, Maj Seward was responsible for ensuring that information was properly passed down to his troops. He did not accomplish this. In testimony, LCol MacDonald stated that the main problem 2 Cdo encountered during the training exercise, Stalwart Providence, "was the fact that information being passed on by my squadron commanders, by myself, and by [Maj Seward's] deputy commanding officer to him was not getting to his soldiers".[22] LCol MacDonald based this conclusion upon personal observations, debriefs LCol MacDonald received from squadron commanders, and observations provided by his regimental second-in-command.[23] Maj Kampman, who observed the training of 2 Cdo from a more direct vantage point, confirmed in his testimony that information relayed to Maj Seward did not reach his troops.[24] Maj Kampman testified that he directly confronted Maj Seward with this issue on several occasions.[25] Maj MacKay[26] and Maj Kyle[27] also confirmed that there was a failure in the passage of information. For his part, Maj Seward agreed that he had been told of the problem[28] and, in one instance, agreed that the criticism was valid.[29]

The evidence is clear that Maj Seward failed in his task as OC to adequately pass information down to his troops. We agree with Col MacDonald that such failures in transmission constitute a deficiency in the proper functioning

of a military sub-unit, and that the issue is an important leadership issue. Col MacDonald further expressed the view that the deficiencies he saw in 2 Cdo, including the serious problem concerning the passage of information, was enough to warrant removal of Maj Seward as OC. In this vein, he testified that "I told him I didn't think he was fit to command the Commando and had he been working for me I would have fired him."[30] We agree that Maj Seward failed to properly command and supervise his troops, and that his failure regarding the passage of information was but an example of his responsibility to ensure the effective operation of 2 Cdo's intelligence capability. The problem was more squarely on Maj Seward's shoulders the moment he was notified of it, especially because he was also given clear instruction to fix it. He did not and must bear the responsibility for failing to do so.

5. Failure to foster effective relationships between himself and his officers, himself and his senior non-commissioned officers, and among the senior non-commissioned officers themselves.

Maj Seward also failed to foster effective relationships between himself and his officers, between himself and his senior non-commissioned officers, and among the senior non-commissioned officers. The evidence on this point is substantial. Maj Seward testified that although effective leadership at the unit level requires co-operation among the CO, the regimental sergeant-major (RSM), and the deputy commanding officer (DCO),[31] he felt that two of the three were not the right people for the job. He thought that DCO Maj MacKay was not the right person to serve LCol Morneault, and that the RSM was unsuitable for the CAR.[32] He also testified to other difficulties within the leadership ranks. He stated that the platoon warrant officers did not get along with MWO Mills.[33] Maj Seward himself had an altercation with the RSM, CWO Jardine, and admitted that an "altercation between a field officer and a regimental sergeant-major is a very significant event, it doesn't happen on a regular occasion and it should not happen."[34] CWO (ret) Jardine testified that he had a gut feeling that Maj Seward would cause problems,[35] and Maj Seward testified in return that the commando sergeant-majors did not like CWO Jardine and that he thought CWO Jardine was disloyal to LCol Morneault.[36] Maj Seward also had a shouting match with Capt Kyle.[37] Maj MacKay's relations with Maj Seward were antagonistic: they had altercations as to whose commands should prevail.[38] Maj Seward had a hostile relationship with Capt Mansfield, the Deputy CO of 2 Combat Engineer Regiment and, subsequently, OC of the Engineer Squadron in Somalia;[39] the two reportedly spoke to one another only through intermediaries.[40] Maj Seward did not

trust Capt Kyle, Sgt Wyszynski, or Sgt Wallace.[41] MWO Mills, who acknowledged that he acted as an adviser to the CO, and that he played a role in enforcing discipline in 2 Cdo, had an acrimonious relationship with WO Murphy, the officer in charge of discipline for 4 Platoon.[42]

This list of strained relations speaks for itself. Lacking any evidence that Maj Seward pursued these difficulties in an attempt to resolve them, this fifth allegation is fully substantiated.

6. Failure to ensure that all members of 2 Commando were adequately trained and tested in the Law of War or the Law of Armed Conflict including the four 1949 Geneva Conventions on the protection of victims of armed conflict.

Maj Seward was also responsible for ensuring that all members of 2 Cdo were adequately trained and tested in the Law of Armed Conflict, including the four 1949 Geneva Conventions on the protection of victims of armed conflict. Prior to deployment, LCol Watkin provided a Law of Armed Conflict lecture to the officers, regimental sergeant-majors, and the commando sergeant-majors responsible for the deployment troops.[43] The onus was on these officers to pass the contents of this lecture down to the soldiers.[44]

However, Maj Seward stated he did not synthesize LCol Watkin's lecture and pass the information to 2 Cdo,[45] despite his concession that Law of Armed Conflict training is an important and relevant form of training for soldiers sent in theatre. Maj Seward also stated "in retrospect, that it's a lesson learned and it would be a part of my recommendation that we conduct such training".[46]

NOTES

1. Testimony of Maj Seward, Transcripts vol. 30, p. 5683. Testimony of MWO Mills, Transcripts vol. 23, pp. 4272–4273.
2. Testimony of Maj Seward, Transcripts vol. 30, p. 5685.
3. Testimony of Maj Seward, Transcripts vol. 32, p. 6062.
4. Testimony of Maj Seward, Transcripts vol. 31, p. 5972.
5. Testimony of Maj Seward, Transcripts vol. 30, p. 5685.
6. Testimony of Col (ret) Houghton, Transcripts vol. 12, pp. 2253-2254; Col Holmes, Transcripts vol. 4, p. 611; MWO Mills, Transcripts vol. 23, pp. 4271, 4361, vol. 24, p. 4417; Maj MacKay, Transcripts vol. 33, p. 6424; LCol Morneault, Transcripts vol. 39, pp. 7569-7572, 7586-7587; and CWO (ret) Jardine, Transcripts vol. 105, p. 20889.
7. Testimony of Maj Seward, Transcripts vol. 30, p. 5660 and following.

8. Testimony of Maj Seward, Transcripts vol. 30, p. 5737. See, for example, letter, BGen Beno to MGen MacKenzie, Commander LFCA, October 19, 1992, Document book 15, tab 18. See also Testimony of LCol Morneault, Transcripts vol. 36, p. 6967.
9. Testimony of Maj Seward, Transcripts vol. 30, pp. 5743–5745.
10. See, for example, testimony of Maj Seward, Transcripts vol. 30, pp. 5737–5738 and following. See also Testimony of LCol Morneault, Transcripts vol. 36, p. 6991.
11. Testimony of Maj Seward, Transcripts vol. 31, pp. 5977–5981 and following.
12. Testimony of BGen Beno, Transcripts vol. 41, p. 7931.
13. Testimony of Maj Seward, Transcripts vol. 30, p. 5720.
14. Testimony of MWO Mills, Transcripts vol. 23, p. 4322.
15. Testimony of Maj Seward, Transcripts vol. 30, p. 5822.
16. Testimony of Maj Seward, Transcripts vol. 31, p. 5980.
17. Testimony of MWO Mills, Transcripts vol. 23, p. 4329.
18. Testimony of Maj Seward, Transcripts vol. 30, pp. 5755, 5770. See also Testimony of Col MacDonald, Transcripts vol. 26, p. 4984; Testimony of LCol Morneault, Transcripts vol. 36, p. 7016.
19. Testimony of Maj Seward, Transcripts vol. 31, pp. 5754–5755.
20. Testimony of Maj Seward, Transcripts vol. 51, p. 5993.
21. Testimony of Maj Seward, Transcripts vol. 30, pp. 5754–5755.
22. Testimony of Col MacDonald, Transcripts vol. 27, pp. 5083-5084; see also Transcripts vol. 26, p. 5011.
23. Testimony of Col MacDonald, Transcripts vol. 27, p. 5096.
24. Testimony of Maj Kampman, Transcripts vol. 27, pp. 5176, 5188.
25. Testimony of Maj Kampman, Transcripts vol. 27, p. 5190.
26. Testimony of Maj MacKay, Transcripts vol. 34, p. 6549.
27. Testimony of Maj Kyle, Transcripts vol. 21, pp. 3879-3880.
28. Testimony of Maj Seward, Transcripts vol. 30, p. 5785.
29. Testimony of Maj Seward, Transcripts vol. 30, p. 5781.
30. Testimony of Col MacDonald, Transcripts vol. 26, p. 4986.
31. Testimony of Maj Seward, Transcripts vol. 30, pp. 5671–5672.
32. Testimony of Maj Seward, Transcripts vol. 30, p. 5672.
33. Testimony of Maj Seward, Transcripts vol. 30, pp. 5685-5687.
34. Testimony of Maj Seward, Transcripts vol. 30, p. 5723. See also Testimony of LCol Morneault, Transcripts vol. 36, pp. 6971–6972.
35. Testimony of CWO (ret) Jardine, Transcripts vol. 24, pp. 4578–4579.
36. Testimony of Maj Seward, Transcripts vol. 30, pp. 5673, 5703.
37. Testimony of Maj Kyle, Transcripts vol. 21, p. 3883.
38. Testimony of CWO (ret) Jardine, Transcripts vol. 24, p. 4580; and Maj MacKay, Transcripts vol. 33, pp. 6277–6278.
39. Testimony of Maj Mansfield, Transcripts vol. 103, pp. 20417, 20477.
40. Testimony of Maj Mansfield, Transcripts vol. 103, pp. 20416–20417.
41. Testimony of CWO Cooke, Transcripts vol. 26, p. 4895; and Maj Seward, Transcripts vol. 31, pp. 5857, 6003.
42. Testimony of MWO Mills, Transcripts vol. 23, pp. 4268–4269; and WO Murphy, Transcripts vol. 34, pp. 6582-6586.

43. Testimony of Maj Seward, Transcripts vol. 31, p. 6023.
44. Testimony of LCol Turner, Transcripts vol. 20, p. 3535. See also Testimony of LCol (ret) Mathieu, Transcripts vol. 169, p. 34734, who stated that the OCs were required to disseminate the information.
45. Testimony of Maj Seward, Transcripts vol. 31, p. 6023.
46. Testimony of Maj Seward, Transcripts vol. 30, p. 5807.

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General Jean Boyle[1]

We advised Gen Jean Boyle that we would, in our final report, consider allegations that he exercised poor and inappropriate leadership in the post-deployment phase of the Somalia mission by:

1. **Devising or condoning a process which provided misleading or incomplete information with respect to the Somalia mission;**

2. **Failing to take concrete and appropriate steps in relation to the DGPA documents to ensure proper compliance with the Commissioners' order to transfer Somalia-related documents to the Inquiry; and**

3. **Failing as an officer responsible for overseeing the operations of the Somalia Inquiry Liaison Team to properly assist the Commissioners in obtaining, in a timely and responsible manner, all relevant information from the DND.**

We address each allegation in turn but, before doing so, it is necessary to provide some essential background concerning Gen Boyle's involvement in the management of the Somalia crisis.

The CDS and the DM entrusted Gen Boyle with the responsibility to monitor and control the public affairs operations and the release of information with respect to the Somalia mission and the crisis it generated. At that time, that is, in the fall of 1993, Gen Boyle occupied the position of Associate Assistant Deputy Minister (Policy and Communications) (Associate ADM (Pol & Comm)) within the public affairs branch at DND.

On September 27, 1993, a working group, led by Gen Boyle, was created called the Somalia Working Group, composed of senior staff such as the staff officers of the Minister of National Defence (MND) and the CDS. It operated under his direction until June or July 1994.[2]

The office of this Working Group ensured central control of all internal and external documentation regarding Somalia by recording, reviewing, and assessing the information contained.[3] It thoroughly reviewed the Somalia-related Military Police investigations, the de Faye board of inquiry findings and recommendations, as well as some 700 documents that the Board of Inquiry processed or filed. It also processed more than 50 Access to Information requests regarding the Somalia affair and it co-ordinated the responses to the media requests for more information. Finally, it provided advice to the Minister of National Defence, the Deputy Minister, and the Chief of the Defence Staff.

As head of the Somalia Working Group, Gen Boyle had a detailed and intimate knowledge of all important information that flowed from the Canadian Forces in Somalia to National Defence Headquarters (NDHQ), was aware of all the decisions taken at various levels that affected Canadian Forces in Somalia, and had access to all the information that flowed from NDHQ to the forces in Somalia. No other individual had a clearer grasp of these details or a more comprehensive overview of the entire situation as it unfolded. He described himself as "*l'éminence grise*" with respect to Somalia issues within the Department.[4] In his capacity as head of the Somalia Working Group, he had direct access to both to the DM and the CDS.[5]

On April 6, 1995, a Directorate, the Somalia Inquiry Liaison Team (SILT), was established by directive of the CDS. Although the Directorate was established in the ADM (Pol & Comm) group, it is interesting to note that the Directorate was to report not to the ADM (Pol & Comm), Dr. Kenneth Calder, but directly to Gen Boyle, who was the Associate ADM (Pol & Comm).[6]

On July 1, 1995, MGen Boyle was promoted to LGen and moved from the position of ADM (Pol & Comm) to the position of Assistant Deputy Minister (Personnel) (ADM (Per)). However, the reporting channel for SILT did not remain, as one would have expected, with Gen Boyle's successor in the post of Associate ADM (Pol & Comm); rather, it moved on with him.[7] Indeed, the new position of Special CF/DND Adviser was created, and LGen Fox was called from retirement to occupy the position. In fact, LGen Fox was tasked with the duty of developing the CF/DND position in relation to our Inquiry, and to superintend all activities of SILT.[8]

This position of Special CF/DND Adviser was created under the joint signature of the CDS and the DM. Here again, what is interesting to note regarding Gen Boyle is the fact that the Special Adviser, rather than reporting

to the DM and the CDS, was to report to the DM and to the ADM (Per), who was Gen Boyle. Although the directive creating SILT in April 1995 required that SILT, under the direction of Col Leclerc, report directly to the Associate ADM (Pol & Comm), this new directive creating the position of Special Adviser in June 1995 in effect amended the SILT directive and ensured that the Special Adviser who, from then was to superintend SILT, would continue to report to Gen Boyle in his new capacity as ADM (Per).[9]

In January 1996, LGen Boyle was promoted to General and became the CDS and, from that moment on, the Special Adviser reported to him, although the directive creating his position continued to stipulate that LGen Fox was to report to the ADM (Per). It is worth noting that the original explanation given as to why the Special Adviser was to report to Gen Boyle as ADM (Per), rather than to the CDS, was that the latter would be called as a witness before the Inquiry and it would be better if he did not personally monitor the relationships of SILT with the Inquiry. Yet, when Gen Boyle became the CDS he kept control over both the Special Adviser and SILT, although it was obvious that he would have to account before this Inquiry for his management of the Somalia crisis.[10]

To summarize, the responsibilities for SILT and the Special Adviser to the CF/DND followed Gen Boyle from his position as Associate ADM (Pol & Comm), to his position as ADM (Per), to his position as CDS.[11] Gen Boyle was thus involved, albeit in various capacities, in virtually every action and decision taken by the chain of command with regard to and in reaction to the Somalia mission and its aftermath.[12] He exerted strict control over any public release of Somalia-related material or information whether these were press releases, backgrounders, Response to Queries (RTQs), or Media Response Lines (MRLs).[13]

We turn now to the allegations.

1. Devising or condoning a process which provided misleading or incomplete information with respect to the Somalia mission.

***Alteration of Documents*[14]**

In September 1993, Mr. Michael McAuliffe, a CBC reporter, made a telephone request for copies of existing RTQs relating to Somalia. It was eventually agreed at the Directorate General of Public Affairs (DGPA) that Mr. McAuliffe would unofficially and informally be given a number of altered RTQs.

Indeed, the oral and documentary evidence heard and filed at our hearings clearly reveals a concerted and deliberate decision taken by the Director General of Public Affairs, Mr. Gonzales, and his subordinates to alter the format of the RTQs requested by Mr. McAuliffe.[15] The alteration consisted

of the deletion of the information identifying the originator of the RTQs, those who had approved the RTQs, as well as sensitive information contained in the comment and background sections of the documents. The reformatting of the documents by computer was done in such a way that the documents would appear to be full and complete.[16]

We are satisfied on the basis of the evidence adduced that Gen Boyle was a party to the decision to informally release altered documents to the requester, and gave his concurrence to such a process.[17]

In testimony before us, Mr. Gonzalez, who at the relevant time was the Director General, made reference to a meeting involving Gen Boyle and Dr. Calder in which the informal release of altered documents to the reporter was discussed. The agreement was that the reporter would be given only the issue and response sections of the RTQs.[18] Mr. Gonzalez stated: "I left that meeting with the clear understanding that I had their concurrence in principle...".[19]

Subsequently, Mr. Gonzalez prepared a memorandum, dated October 26, 1993, with copies of the original RTQs attached. These were seen by Gen Boyle who agreed to the release of the issue and response sections of those RTQs.[20] This memorandum bears a handwritten note ("we spoke") from Gen Boyle to Dr. Calder in which he acknowledges that they had discussed the informal release of the documents and seeks Dr. Calder's approval.

The testimony of Mr. Gonzalez on the issue of the informal release of RTQs to Mr. McAuliffe is consistent with the process in place at the time to deal with the Somalia crisis. Indeed, at the time, no Somalia-related document could be released to the media without prior approval of Gen Boyle who was heading the Somalia Working Group under the direct supervision of the CDS and the DM. By Gen Boyle's own admission, he conducted a careful and conscientious review of all documents that were brought to him for sign-off and did not take any release lightly.[21]

Furthermore, Mr. Gonzalez had just been recruited to fill the Director General position by Dr. Calder, and would not have taken it upon himself to publicly release such sensitive documents. We could find no logical reason why he would not have mentioned to Dr. Calder and Gen Boyle the consensus that he had ascertained among his senior staff to release informally only portions of the RTQs.[22]

Gen Boyle was described to us as a meticulous man, a micro manager, and a stickler for details.[23] We find it hard to believe that a new Director General would have dared submit documents to Gen Boyle for his approval without telling him that the documents in question had been altered, especially since these documents were to be publicly released to the media.

Finally, it was common knowledge in the media liaison office at the time that Mr. McAuliffe was to receive altered documents.[24]

On January 20, 1994, Mr. McAuliffe made an official request under the *Access to Information Act* (ATI Act) for "all documents known as Response to Queries prepared by or for the Media Liaison Officer or DGPA branch at NDHQ between the dates of May 15, 1993, and January 16, 1994".[25] This official request under the ATI Act encompassed the RTQs already released to the reporter but in altered form.

Fearing that the reporter would realize that the documents that had been unofficially released had been altered, the senior authorities at the DGPA decided to carry forward the pattern previously adopted and proceeded to alter the RTQs officially requested under the ATI Act.[26] As Cdr Caie put it, "it was my understanding that they were operating under the same authority, if you wish, for lack of a better word, as we were with the original request on the RTQs."[27] These RTQs were sent to Mr. McAuliffe on May 16, 1994, almost three months after they were due under the Act.[28]

Although there is no direct evidence of Gen Boyle's knowledge of the alterations of the documents formally requested under the ATI Act, we are satisfied that he knew of such alterations.

Indeed, Gen Boyle was quite familiar with the format of the RTQs as he had signed off on a number of them. Actually, he was required to perform a double sign-off of the Somalia-related documents, that is, as the group principal's representative and the person responsible for Somalia issues.[29] The deletions were very obvious to anyone who was familiar with RTQs: the altered RTQs had no front page indicating the originator of the RTQs and the persons who had been consulted, no back page indicating those who had approved their contents and their release, and the documents were stripped of the sensitive background and comment sections. Although an average or standard RTQ had a minimum of three pages,[30] many RTQs were reduced to a single page.

Gen Boyle simply could not have overlooked these obvious alterations as he reviewed the file. As Mr. Gonzalez put it, "I would find it incredible that somebody that had signed RTQs would not know that these were not RTQs."[31] In addition, Gen Boyle dealt with the McAuliffe file four times during its preparation. The departmental ATI office even returned the file to him because the appropriate sign-off authorities had not been obtained. He was responsible and accountable for the accuracy of the RTQs sent to the requester via the ATI office.[32]

Gen Boyle's immediate co-workers who prepared the material for his approval also believed that he was aware of the fact that the RTQs in the package prepared under the *Access to Information Act* had been altered.[33] Indeed, it would make little sense for these officers and Mr. Gonzalez to

jeopardize their careers by deceiving Gen Boyle (as he has suggested) and inducing him to release publicly altered documents without telling him. They had no identifiable motivation for doing this type of action.

Gen Boyle had been a party to the earlier informal release of altered RTQs to Mr. McAuliffe, and he was therefore obviously quite aware of the impact that the subsequent release of the actual unaltered RTQs to Mr. McAuliffe would have had.

Finally, in the context of a military chain of command, it defies common sense to believe that subordinate officers, for no personal gain or benefit, would independently undertake the surreptitious alteration of documents against the will of their superior whose approval they would ordinarily have to secure prior to public release.

The Change from RTQs to MRLs

In June 1994, Mr. McAuliffe made a second request for RTQs and was denied access to them.[34] He was informed by the DND Co-ordinator for Access to Information and Privacy, acting on advice received from Gen Boyle on May 11, 1994 and June 17, 1994, that RTQs had not been produced since January 1994. Production had stopped ostensibly as a result of a change in policy and the introduction of a 1-800 media information line.[35]

As of January 1, 1994, under a new policy, Media Response Lines (MRLs) were created as a replacement for RTQs. These new documents were designed to have a lifespan of 72 hours. Gen Boyle was involved in the development and elaboration of that policy by Mr. Gonzalez.[36]

However, the evidence before us revealed clearly that Gen Boyle's memo was seriously misleading. RTQs were still produced in January, February, and March 1994,[37] although, according to the policy, RTQs were supposed to have been replaced by MRLs. Indeed, some 35 RTQs were generated in this period. Gen Boyle himself signed, reviewed, or initialled some of these on January 14, 21, 25 and 26 and on February 9, 1994.[38]

The change of name from RTQs to MRLs was, in our view, nothing less than a vulgar scheme to frustrate Access to Information requests and was, in fact, regarded in this way by the personnel within the public affairs branch.[39] Gen Boyle admitted that both documents served exactly the same function in the operations of the media liaison office.[40] The destruction of MRLs after 72 hours was designed to defeat Access to Information requests directed to the Media Liaison Office within DGPA.[41]

Indeed, the memo by Col Haswell to Gen Boyle is indicative of the attempt to frustrate the Act.[42] In that memo, he wrote that Mr. McAuliffe's request had been anticipated and "fortunately" the authorities were in a position to

tell the reporter that RTQs were no longer produced for the period requested. This was done without telling the reporter that RTQs had simply been replaced by MRLs.

This deceptive mind set, prevalent within DGPA, is also apparent in a draft memo prepared for the signature of Gen Boyle.[43] In this memo addressed to his superior, Dr. Calder, Gen Boyle suggested that in these times of increased Access to Information requests, it might be prudent to remove from all pertinent documents any references to the name of a journalist who had been critical of the Department. We were unable to ascertain if the original was eventually signed by Gen Boyle, but the memo reveals a willingness to alter existing documents prior to their public release under the *Access to Information Act*. Gen Boyle obviously was aware of the prevailing mind set with respect to ATI matters under his control.[44] Indeed, Ms. Ruth Cardinal, who replaced Mr. Gonzalez as Director General of Public Affairs, added to the negative and restrictive interpretation of a citizen's right to access by adopting a practice of editing draft correspondence by using removable yellow stickers on documents which were not retained on the file thereby precluding any subsequent examination of the material.[45] In any event, Gen Boyle's misleading memo signalled approval to his subordinates of what they were doing.

Furthermore, the installation of the media line had little to do with the production of RTQs or MRLs, as many witnesses, including Gen Boyle himself, acknowledged.[46] Gen Boyle's memo also failed to inform Mr. McAuliffe that, in fact, MRLs had replaced RTQs and that the MRLs were, for all intents and purposes, RTQs disguised under a different name.

As early as August 20, 1993, before Mr. McAuliffe's informal request for RTQs, the Vice Chief of the Defence Staff (VCDS), LGen O'Donnell, wrote to a number of senior officials, including the ADM (Pol & Comm) and Gen Boyle, expressing concern over the fact that some replies provided by various offices and group principals in response to ATI requests for Somalia records were incomplete and, in some instances, erroneous. He stressed the importance of the matter and the serious consequences that such failings could have for the integrity of the Department. In his communication, he spoke of the necessity for DND to act not only in accordance with the letter, but also with the spirit of the ATI legislation.[47] In a memo sent three days later by Gen Boyle to his superior, Dr. Calder, Gen Boyle addressed the concerns of the VCDS by asserting that he controlled every information request that went through the office and that he would sign off (that is, assume responsibility) on Dr. Calder's behalf. He went on to add that the same process would be followed for all ATI requests.[48] Therefore, Gen Boyle was aware of the continuing problems before Mr. McAuliffe's request and pledged himself to exert strict control and ensure compliance with the Act.

However, in his testimony before us, Gen Boyle defined his role narrowly as one of ensuring compliance with the letter of the Act.[49] Also, he acknowledged his failure to ensure compliance with the spirit of the law.[50]

The end result of this was to discredit a new system purportedly designed to bring greater transparency to DND's relations with the media and the public.[51] To the contrary, the actual effect was a gradual erosion of transparency and accountability.

The letter of the VCDS certainly amounted to a serious warning and reprimand to the entire DND. Strikingly, according to the evidence before us, the remarks of the VCDS were subsequently ignored by those who received them.[52] The mentality whereby one need only to obey the letter of the law continued to flourish during Gen Boyle's tenure. As one witness put it, a requester will only get what is specifically asked for and this may mean that he or she will receive nothing if the wrong terminology is employed.[53]

We are satisfied on the basis of the cogent evidence adduced before us that Gen Boyle participated in the devising of a process which provided the public with misleading or incomplete information and condoned such a process.

Deletions were made to documents, and the requirements of the ATI Act were not followed in this process of deletion. Mr. McAuliffe was never informed of the deletions and, consequently, no justifications were advanced to explain why the deletions had been made. A clear and successful attempt to deceive the reporter was in fact orchestrated.

In addition, an inordinate number of hours and prohibitive costs for the search and analysis of requested documents were initially charged against Mr. McAuliffe's first formal request (413 hours totalling $4,080), while such documents were in fact readily available.[54] According to a letter signed by Maj Verville and addressed to Lt (N) Brayman, LCdr Considine, and Cdr Caie, the estimate made little sense as Lt (N) Brayman had confirmed that he knew how many RTQs had been written and where they were.[55] Ms. Fournier also regarded the estimate as outrageous since she had collected all the RTQs in two days and the books were sitting on the office shelves.[56] Gen Boyle and Col Haswell also agreed with Maj Verville that this reaction to the request made little sense.[57]

All these events took place under the management of Gen Boyle who had special authority and responsibility with respect to ATI requests and the public release of Somalia-related documents. After the normal process occurred and group principals had signed off, the material was sent to information officers who then forwarded it to Gen Boyle for a final sign-off.[58]

2. Failing to take concrete and appropriate steps in relation to the DGPA documents to ensure proper compliance with the Commissioners' order to transfer Somalia-related documents to the Inquiry.

In the fall of 1993, the Director General of the DGPA, Mr. Gonzalez, reported to the ADM (Pol & Comm), Dr. Calder, through Gen Boyle, who was then the associate for Dr. Calder.[59] As his experience in DGPA broadened, Gen Boyle became more and more involved in public affairs management.[60] Indeed, Gen Boyle's involvement became such that it was no longer limited to Somalia-related issues, but extended to all public affairs matters.[61] In practice, Mr. Gonzalez, to his chagrin, came to report solely to Gen Boyle and no longer to the ADM (Pol & Comm).[62] At one point, Mr. Gonzalez became so upset with Gen Boyle's involvement in the management of DGPA that he complained to Gen Boyle that if he (Gen Boyle) wanted to take over his job, he would gladly move. Mr. Gonzalez described this situation as an organizational nightmare.[63] The reality was that Gen Boyle had become, *de facto*, the public affairs manager, at least regarding Somalia-related issues, and the supervisor of Mr. Gonzalez with respect to the management of all other aspects of public affairs.

On April 21, 1995, we issued an order requesting the transfer to the Inquiry, within 30 days of receipt of the order, of all Somalia-related documents in order to secure and safeguard these documents.[64]

Once our Order for Production of Documents was issued to DND,[65] Gen Boyle's role within DND placed him in a unique position to ensure that the DGPA complied. As chairman of the Somalia Working Group from September 27, 1993, until June or July 1994,[66] he had a chance to familiarize himself with the Somalia-related documents created by the DGPA. He reportedly exercised strict control over any public release of Somalia-related press releases, backgrounders, Response to Queries and Media Response Lines.[67] After April 21, 1995, two chains of command were available to him to exhort the DGPA to conform to our order. Until approximately the end of June 1995, he remained Associate ADM (Pol & Comm) and *de facto* overseer of the DGPA.[68] Ms. Cardinal, who replaced Mr. Gonzalez as Director General of Public Affairs in late March 1994, reported regularly to Gen Boyle.[69] Their meetings gave him a forum for instructing her on how to ensure that the DGPA complied with our order. The Somalia Inquiry Liaison Team (SILT) furnished a second chain of command through which he could attempt to ensure that the DGPA obeyed our order. According to the directive of April 6, 1995 that established SILT formally, SILT was to report directly to Gen Boyle.[70] After he became ADM (Per), the reporting channel for SILT

moved along with him.[71] During the spring and the summer of 1995, he could therefore have ordered SILT to take concrete measures to obtain copies of the DGPA's Somalia-related documents. How adequately did Gen Boyle exploit either chain of command to arrange for the DGPA's Somalia-related documents to reach the Inquiry?

We conclude without hesitation that Gen Boyle did not give Ms. Cardinal clear, timely guidance that could have helped her in complying with our order. She testified that she never received a copy of the order, although she was informed verbally of its existence.[72] Neither Gen Boyle nor Dr. Calder nor their staff gave her instructions for identifying the documents liable to be forwarded or an overall methodology for complying.[73] She acknowledged that SILT provided instructions that the DGPA was to transmit material; however, SILT did not indicate how the DGPA should collect, collate, and transmit the documents in response to the order.[74] Gen Boyle did not give SILT precise instructions for the DGPA to follow in gathering and dispatching Somalia-related documents. While this lack of action fixes Gen Boyle with a leadership failure, it does very little to absolve either SILT or DGPA of their responsibilities in this regard.

The consequences of Gen Boyle's misconduct were serious. Testimony before the Inquiry confirms that Ms. Cardinal issued no written or verbal instructions to her personnel to ensure compliance with the order.[75] Gen Boyle had not clarified adequately her obligations under the order. Only in September 1995, that is, some four and a half months subsequent to the order and three and a half months after its original expiry date, did the DGPA personnel most familiar with Somalia-related documents — Lt (N) J.D. Brayman, Ms. Nancy Fournier, and Ms. Claudette Lemay — learn of it and realize that they had to respond.[76]

In September 1995, the DGPA's reluctance to comply with our order became especially blatant. We received evidence to the following effect: on September 5, 1995, Lt (N) A. Wong discovered Ms. Fournier placing documents from one set of Somalia binders into a burn bag; he ordered her to desist; she began to replace the documents; and Col Haswell instructed her not to proceed further with the destruction.[77] We are satisfied that some senior elements within the DGPA attempted wilfully to avoid complying with our order: their motive was to conceal the demonstrable fact that on two occasions Mr. McAuliffe had received RTQs in altered form.

By September 5, 1995, Gen Boyle was no longer Associate ADM (Pol & Comm), and he had therefore ceased to exercise oversight over the DGPA. Yet he remained overseer of SILT and as such had a duty of care toward the documents Ms. Fournier was placing into a burn bag. Specifically, he was obliged to ensure that we were informed immediately that these documents existed and that an attempt to destroy them had taken place; furthermore,

he should have arranged for these documents or copies to be relayed to us. The extent to which he discharged this duty of care from September 5, 1995 onward shows that he failed to take concrete and appropriate measures in relation to the DGPA documents to ensure proper compliance with our order.

Gen Boyle himself suggested that he first knew on September 21, 1995, that an attempt to destroy Somalia-related documents occurred at the DGPA.[78] We quite simply do not believe his evidence on this point. If indeed he did not know earlier, three different chains of command would all have had to fail: the DGPA, the SILT, and the Judge Advocate General (JAG) chains of command.

The DGPA chain of command was led by Ms. Cardinal who met with him routinely for more than one year after she became Director General of Public Affairs. LGen Fox, as Special Adviser to SILT, conferred regularly with Gen Boyle about the gathering of Somalia-related documents for the Inquiry. (We have concluded on the evidence before us that LGen Fox clearly learned of the attempted destruction and, in all likelihood, conveyed this information to Gen Boyle before September 21, 1995.) Additionally Lt (N) Wong, a member of SILT from the spring of 1995, enjoyed direct access to Gen Boyle for over one year before the incident of September 5, 1995.[79] From August to October 1995, he met with Gen Boyle at least 10 times to obtain his sign-off on approximately 30 *Access to Information Act* requests for Somalia-related information.[80] BGen Boutet, the JAG, consulted with Gen Boyle frequently.[81] BGen Boutet's subordinate, LCol Carter, was also a SILT lawyer; she therefore had two chains of command through which she could relay to Gen Boyle the knowledge she had of the attempted destruction of documents.[82] In brief, we believe that some or all of the above mentioned individuals revealed the events of September 5, 1995, to Gen Boyle before September 21,1995. As for the contention that the information was withheld from Gen Boyle by all of these officers for over two weeks, if indeed true, and if all of them did not advise their superior, such inaction provides a stunning indictment of the functioning of the chains of command within DND.

Even if we were to accept Gen Boyle's assertion that the events of September 5, 1995, became known to him only on September 21, 1995 — which we do not — this does not assist him greatly. Certainly he could have ordered his subordinates to inform us expeditiously of the serious problems at the DGPA and the DGPA's failure to comply with our order, but he did not do so. We were in daily contact with SILT, especially with LGen Fox, Col J. Leclerc, and LCol Carter; yet we received no pertinent information. Only when we confronted SILT on October 3, 1995 with our knowledge of the ongoing problems was there any admission of the facts. On October 27, 1995, LCol Carter forwarded to us by fourth-class mail some samples of altered and unaltered RTQs; the package reached us on November 8, 1995.

Mr. McAuliffe broke a news story on November 8, 1995, that blamed Gen Boyle for providing misleading information; in the afternoon of the same day we obtained three boxes of DGPA documents. The foregoing chronology lends additional support to the view that Gen Boyle misconducted himself by failing to take concrete, timely measures to ensure that the DGPA documents falling under our order reached the Inquiry.

3. **Failing as an officer responsible for overseeing the operations of the Somalia Inquiry Liaison Team to properly assist the Commissioners in obtaining, in a timely and responsible manner, all relevant information from the DND.**

While we have remarked that SILT reported directly to Gen Boyle from April 1995 onwards, we stress that SILT's Special Adviser, LGen Fox, continued reporting to Gen Boyle even after Gen Boyle became CDS in January 1996. From April 1995 well into 1996, except perhaps from the autumn of 1995 when questions about his own role in handling Somalia-related documents compromised his role, Gen Boyle was favourably situated to follow the response to our orders and requests for documents and to influence it. Did he assist us properly as overseer of SILT to obtain all relevant information from DND?

Unfortunately, SILT, acting under Gen Boyle's authority, failed to implement a system to achieve compliance with our Order of April 21, 1995, and a follow-up procedure to ensure that all elements within DND and the CF fully and satisfactorily conformed with our order and the forces-wide message of June 16, 1995. Gen Boyle's own testimony leaves little doubt that SILT did not institute an organized, structured methodology for identifying, locating, and collating documents and forwarding them to the Inquiry.[83] LGen Fox's evidence suggests that SILT remained content to respond to the Inquiry's requests for documents as they arrived.[84] Gen Boyle's testimony confirms that even in a reactive stance, SILT's responses to document requests were frequently not timely or forthcoming.[85] SILT's practices in transferring documents to the Inquiry also betrayed a relatively casual approach. In a memorandum of April 27, 1995 to Gen Boyle for action, Col Leclerc affirmed that all documents forwarded to the Inquiry would be registered and copies kept at SILT,[86] but Gen Boyle testified that this plan was not realized in practice.[87] In brief, we conclude that Gen Boyle, as overseer of SILT, did not assist us properly in obtaining in a timely and responsible manner all relevant information from DND and, accordingly, misconducted himself.

Under Gen Boyle, SILT sought only belatedly and grudgingly to track down some of the most revealing documents about CF operations in Somalia, and the in-theatre logs are an especially egregious example. We made repeated

requests for in-theatre logs during the autumn of 1995 and issued a specific order in January 1996 for all missing logs; yet the intelligence logs of CJFS Headquarters, brought back from Somalia to Canada under heavy military security, were destroyed in February 1996. Officially the reason advanced for destroying them was that the authorities needed storage space, but Gen Boyle himself conceded that these logs had been stored since their return in the intelligence lock-up inside the 1 Cdn Div Headquarters intelligence cell in Kingston.[88]

The operation logs of the CARBG form another important example demonstrating SILT as dilatory in its pursuit of documents. These operation logs were delivered with pages missing to the Inquiry on February 1, 1996,[89] that is, over nine months after our Order of April 21, 1995. Gen Boyle acknowledged that attempts to locate the missing pages apparently began only on March 11, 1996.[90] By Gen Boyle's recognition, other categories of logs reached the Inquiry only tardily, if at all.[91] Only after we informed the military authorities that we would summon Gen Boyle as a witness to account for the inadequate compliance with our orders did the search for logs become vigorous. More generally, the whole process of providing documents to us began seriously to unfold only when we indicated to Gen Boyle that he would have to provide sworn testimony about the extent of his conformity to our orders and document requests; we then received highly relevant documents we had awaited for months. In our view, Gen Boyle, as overseer of SILT, adopted an approach toward the Inquiry's orders and document requests that mirrored the approach he espoused throughout in managing the Somalia crisis: a policy of containment and damage control.

Gen Boyle sought to mitigate his responsibility and, hence, accountability, for SILT's omissions from June through August 1995 by claiming that LGen Fox failed to inform him and the DM of the difficulties the Inquiry encountered in obtaining documents.[92] We believe it to be likely that LGen Fox did advise Gen Boyle of these difficulties but, in any event, in professing ignorance Gen Boyle has availed himself of a weak defence; as overseer of SILT, he ought to have supervised the work of SILT and known of these difficulties. Nevertheless, as we have made clear, our disclosure problems with SILT persisted well beyond August 1995, since Gen Boyle remained SILT's overseer. In short, Gen Boyle's affirmations that he was unaware of the Inquiry's difficulties in obtaining documents do not allow us to vary our finding that he did not assist us properly to obtain, in a timely and responsible manner, all relevant information from DND, and that he failed in his capacity as the officer responsible for supervising SILT's operations to assist our Inquiry in the timely gathering of relevant information.

Conclusions

In finding that the three allegations against Gen Boyle were supported and that he therefore misconducted himself, we are obliged to assert more broadly that he displayed poor and inadequate leadership. His was the foremost demonstration that errors of leadership permeated DND's response to the problems that had manifested themselves in Somalia. When Gen Boyle misconducted himself, he committed the same fundamental mistakes that had surfaced earlier in the Somalia mission itself. The system of arrangements SILT instituted under his oversight to provide the Inquiry with Somalia-related documents was inadequate and flawed. He failed to oversee and supervise adequately crucial areas for which he was responsible — witness his failure to ensure that the Inquiry received the DGPA's Somalia-related documents in a timely and responsible way. Furthermore, he held his subordinates to a standard of accountability that he was not prepared to abide by himself. By his own admission, he failed to respect the spirit of the *Access to Information Act*, but when asked how he would react if subordinates obeyed the letter but not the spirit of the law, he replied that he would react "in a very negative fashion", and added that he would take remedial measures.[93] Although his failures of leadership would be grievous enough in any senior commander, they acquire uniquely troubling dimensions when they appear in a CDS, who must lead and inspire the entire Canadian Forces.

NOTES

1. Because of the number of positions he held and the rapidity of his advancement, we refer to him through most of this chapter as General Boyle. Also, to assist the reader in better understanding our conclusions regarding Gen Boyle's conduct we have deemed it advisable to repeat in this section portions of the text describing our difficulties with the DGPA and DND disclosure.
2. Testimony of Gen Boyle, Transcripts vol. 86, p. 16904.
3. See Exhibit P-145 (Weekly Reports Somalia Working Group, 8 October 93–10 June 94).
4. Testimony of Gen Boyle, Transcripts vol. 86, p. 16897.
5. Testimony of Gen Boyle, Transcripts vol. 86, pp. 16821–16822.
6. Testimony of LGen Fox, Transcripts vol. 78, p. 15286; Document book 100A, tab 14.
7. Testimony of LGen Fox, Transcripts vol. 78, pp. 15286–15287.
8. See Exhibit P-162.
9. Testimony of LGen Fox, Transcripts vol. 78, p. 15287.

10. Testimony of Gen Boyle, Transcripts vol. 86, pp. 16928–16932.
11. Testimony of LGen Fox, Transcripts vol. 78, pp. 15292–15293.
12. Testimony of Gen Boyle, Transcripts vol. 86, pp. 16904–16905.
13. Testimony of Roberto Gonzalez, Transcripts vol. 58, pp. 11544–11545, and vol. 59, pp. 11675–11676.
14. The text in this portion of our report is in large measure a necessary repetition of that in Volume 5, Chapter 39, dealing with events in the DGPA.
15. Testimony of Roberto Gonzalez, Transcripts vol. 58, pp. 11547, 11551.
16. Testimony of Roberto Gonzalez, Transcripts vol. 58, pp. 11555, 11557–11565, 11570, and Transcripts vol. 59, pp. 11580–11581, 11605–11606; Nancy Fournier, Transcripts vol. 62, pp. 11983, 12057; and Col Haswell, Transcripts vol. 95, pp. 18418–18419, 18424, 18430–18432.
17. Testimony of Roberto Gonzalez, Transcripts vol. 58, pp. 11553–11554, 11562–11563, 11564, Transcripts vol. 59, pp. 11605–11606, 11649–11650, 11659, Transcripts vol. 111, pp. 22160–22161; and Col Haswell, Transcripts vol. 95, pp. 18437–18441, 18447–18450, 18465–18472; and Document book 103, tabs 1 and 2.
18. Testimony of Roberto Gonzalez, Transcripts vol. 111, pp. 22158–22159.
19. Testimony of Roberto Gonzalez, Transcripts vol. 111, pp. 22161-22162.
20. Testimony of Roberto Gonzalez, Transcripts vol. 111, pp. 22166, 22168.
21. Testimony of Gen Boyle, Transcripts vol. 86, p. 16885.
22. Testimony of Col Haswell, Transcripts vol. 95, pp. 18447-18448.
23. Testimony of Roberto Gonzalez, Transcripts vol. 61, p. 11923; Lt (N) Wong, transcripts vol 70, pp. 13455–13456, and Transcripts vol. 71, p. 13719; and Col Haswell, Transcripts vol. 95, pp. 18554–18555.
24. Testimony of Lt (N) Wong, Transcripts vol. 70, pp. 13470–13471.
25. Document book 103, tab 4, Letter of Michael McAuliffe to ATI Co-ordinator DND (20 January 1994).
26. Testimony of Nancy Fournier, Transcripts vol. 62, pp. 12033–12038, 12042, 12055–12056.
27. Testimony of Cdr Caie, Transcripts vol. 84, p. 16449.
28. Document book 103, tabs 17, 18, 38.
29. Testimony of Gen Boyle, Transcripts vol. 86, p. 16888.
30. Testimony of Roberto Gonzalez, Transcripts vol. 61, p. 11894.
31. Testimony of Roberto Gonzalez, Transcripts vol. 61, pp. 11895–11896.
32. Testimony of Roberto Gonzalez, Transcripts vol. 61, p. 11908.
33. Testimony of Roberto Gonzalez, Transcripts vol. 61, pp. 11895–11896; Lt (N) Brayman, Transcripts vol. 65, p. 12721; and Cdr Caie, Transcripts vol. 84, pp. 16449–16450.
34. Document book 103, tabs 40 and 43.
35. Document book 103, tabs 36, 41, 43.
36. Testimony of Roberto Gonzalez, Transcripts vol. 59, pp. 11685–11687, 11703–11704.
37. Testimony of Nancy Fournier, Transcripts vol. 62, p. 12115; and Lt (N) Brayman, Transcripts vol. 65, p. 12687.
38. Document book 103, tabs 3, 5, 9, 10, 11; Testimony of Gen Boyle, Transcripts vol. 88, pp. 17218, 17222–17225.

39. See, for example, Document book 103, tab 39, where the words MRL and RTQ were used interchangeably, as the "MRL" contains a reference to the date this "RTQ" was used. See also Testimony of Nancy Fournier, Transcripts vol. 62, pp. 12110–1211, 12115-12116; Lt (N) Brayman, Transcripts vol. 65, pp. 12679, 12682, and Transcripts vol. 67, p. 13090; Gen Boyle, Transcripts vol. 88, pp. 17208–17210; and Col Haswell, Transcripts vol. 95, pp. 18472–18475, 18479–18480, 18486, 18499; and Document book 100, tab 6, Annex Q, p. DND 346421–346423, for the perception of the staff.
40. Testimony of Gen Boyle, Transcripts vol. 88, pp. 17217–17218.
41. Testimony of Col Haswell, Transcripts vol. 95, pp. 18480–18484.
42. Document book 103, tab 42.
43. See Exhibit P-195; Testimony of Col Haswell, Transcripts vol. 95, pp. 18507–18515.
44. Testimony of Col Haswell, Transcripts vol. 95, pp. 18493-18495. See also Col Haswell's memo to Gen Boyle, Document book 103, tab 42, which acknowledges it openly.
45. Testimony of Col Haswell, Transcripts vol. 95, pp. 18510–18515.
46. Testimony of Roberto Gonzalez, Transcripts vol. 59, pp. 11742–11743; Dr. Calder, Transcripts vol. 81, pp. 15843–15844, 15848–15849, 15854–15855, 15858; Cdr Caie, Transcripts vol. 84, pp. 16419–16420, and Transcripts vol. 85, p. 16600; Gen Boyle, Transcripts vol. 88, pp. 17119–17120; and Col Haswell, Transcripts vol. 95, p. 18546.
47. See Exhibit P-167.
48. See Exhibit P-167.
49. Testimony of Gen Boyle, Transcripts vol. 88, p. 17280.
50. Testimony of Gen Boyle, Transcripts vol. 88, pp. 17220–17222.
51. Testimony of Gen Boyle, Transcripts vol. 88, pp. 17221–17222.
52. Testimony of Gen Boyle, Transcripts vol. 88, pp. 17225–17228.
53. Testimony of Col Haswell, Transcripts vol. 95, pp. 18503–18505, 18548.
54. Document book 103, tabs 12, 13.
55. Document book 103, tab 13; Testimony of Lt (N) Brayman, Transcripts vol. 67, pp. 12947–12948, 13079–13080.
56. Testimony of Nancy Fournier, Transcripts vol. 62, pp. 12048–12050.
57. Testimony of Gen Boyle, Transcripts vol. 88, pp. 17233–17234; and Col Haswell, Transcripts vol. 95, p. 18521.
58. Testimony of Gen Boyle, Transcripts vol. 86, pp. 16881–16882.
59. Testimony of Roberto Gonzalez, Transcripts vol. 58, p. 11533.
60. Testimony of Gen Boyle, Transcripts vol. 86, p. 16796.
61. Testimony of Roberto Gonzalez, Transcripts vol. 59, pp. 11678–11679.
62. Testimony of Roberto Gonzalez, Transcripts vol. 59, pp. 11678–11679.
63. Testimony of Roberto Gonzalez, Transcripts vol. 59, pp. 11679–116780.
64. Document book 100A, tab 1.
65. Document book 100A, tab 1.
66. Testimony of Gen Boyle, Transcripts vol. 86, pp. 16817, 16898, 16904.
67. Testimony of Mr. R. Gonzalez, Transcripts vol. 58, pp. 11544–11545, and Transcripts vol. 59, pp. 11675-11676. Gen Boyle in his turn had to seek approval from the CDS, Gen de Chastelain, and the DM, Mr. Fowler, for releasing Somalia-related materials: Testimony of Roberto Gonzalez, Transcripts vol. 58, p. 11544.
68. Testimony of Dr. Calder, Transcripts vol. 81, p. 15870. Gen Boyle thereupon became Assistant Deputy Minister for Personnel.
69. Testimony of Ruth Cardinal, Transcripts vol. 74, p. 14470.

70. Exhibit P-137, Document book 100A, tab 14, "NDHQ Action Directive D3/95 Somalia Inquiry Liaison Team (SILT)".
71. Testimony of LGen Fox, Transcripts vol. 78, pp. 15286–15287. LGen Fox, the Special Adviser to SILT, continued reporting to Gen Boyle even after Gen Boyle became CDS around the beginning of 1996: Testimony of LGen Fox, Transcripts vol. 78, pp. 15292–15293.
72. Testimony of Ruth Cardinal, Transcripts vol. 74, pp. 14470–14471.
73. Testimony of Ruth Cardinal, Transcripts vol. 74, pp. 14470–14471.
74. Testimony of Ruth Cardinal, Transcripts vol. 74, p. 14471.
75. Testimony of Lt (N) Brayman, Transcripts vol. 65, pp. 12689–12690; and Ruth Cardinal, Transcripts vol. 74, p. 14475.
76. Testimony of Claudette Lemay, Transcripts vol. 58, pp. 11425–11426; Nancy Fournier, Transcripts vol. 62, pp. 12131–12132, 12139; and Lt (N) Brayman, Transcripts vol. 65, pp. 12688–12690.
77. Testimony of Nancy Fournier, Transcripts vol. 62, pp. 12143–12144; Lt (N) Wong, Transcripts vol. 70, pp. 13549–13561; and Col G. Haswell, Transcripts vol. 95, pp. 18596–18598.
78. Testimony of Gen Boyle, Transcripts vol. 92, p. 17922.
79. Testimony of Lt (N) Wong, Transcripts vol. 70, pp. 13442–13443.
80. Testimony of Lt (N) Wong, Transcripts vol. 70, pp. 13522, 13527.
81. Testimony of LCol Benjamin, Transcripts vol. 73, p. 14225.
82. Testimony of Gen Boyle, Transcripts vol. 90, pp. 17546–17547.
83. Testimony of Gen Boyle, Transcripts vol. 86, pp. 16923–16927.
84. Testimony of LGen Fox, Transcripts vol. 77, pp. 14997–15000.
85. Testimony of Gen Boyle, Transcripts vol. 86, pp. 16923–16924, and Transcripts vol. 87, pp. 16996–17069.
86. Exhibit P-137, Document book 100A, tab 18, Somalia Inquiry Order accompanying letter from SILT (J. Leclerc) dated 27 April 1995.
87. Testimony of Gen Boyle, Transcripts vol. 86, p. 16926.
88. Testimony of Gen Boyle, Transcripts vol. 87, p. 17028.
89. Exhibit P-177.1, Document book 99A, tab 6, COI Receipt February 1, 1996, DND 385535.
90. Testimony of Gen Boyle, Transcripts vol. 87, p. 17059.
91. The Service Commando logs described to us initally as "lost" appeared at the Inquiry on March 22, 1996; the existing Airborne Field Squadron logs surfaced only on April 18, 1996; the missing parts of the 2 Commando logs were transmitted to the Inquiry only after April 9, 1996; and the 1 Commando and 3 Commando logs remain missing, save for a couple of pages. Testimony of Gen Boyle, Transcripts vol. 87, pp. 17061-17063.
92. Testimony of Gen Boyle, Transcripts vol. 87, pp. 17050, 17068–17069.
93. Testimony of Gen Boyle, Transcripts vol. 90, p. 17498.

Commission of Inquiry
into the Deployment of
Canadian Forces to Somalia



CANADA

Commission d'enquête
sur le déploiement des
Forces canadiennes en Somalie